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DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1924 and 1944

Revision and Redesignation; Planning and Performing Site Development Work; Correction

AGENCY: Farmers Home Administration, USDA.

ACTION: Correction to final rule.

SUMMARY: The Farmers Home Administration corrects a final rule published on May 22, 1987 at 52 FR 19282 with an effective date of June 22, 1987. Several amendments incorrectly identified the removed text. The intended effect of this action is to correctly identify the removed text so it will not be carried over into the revised regulation.

EFFECTIVE DATE: December 22, 1987.

FOR FURTHER INFORMATION CONTACT: James A. Weibel, Senior Loan Officer, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5346, South Agriculture Building, Washington, DC 20250. Telephone (202) 382–1485.

SUPPLEMENTARY INFORMATION: In the final rule published on Friday, May 22, 1987, Amendment 4 to Part 1924, Subpart A, and amendments 17 and 18 to Subpart E of Part 1944, were incomplete in the wording of the amendatory language. Amendment No. 4 changed a reference in § 1924.5(d)(2). Amendment No. 17 changed a reference in § 1944.212(p)(3). Amendment No. 18 changed a reference in paragraph (c)(1) and in the introductory text of paragraph (d)(1) of § 1944.222.

Therefore, the **Federal Register** of May 22, 1987 (52 FR 19282) is corrected as follows:

1. On page 19283, third column, line 4 of Amendment No. 4, insert "Exhibit A of" in the parenthesis before the word "FmHA".

2. On page 19302, in the first column, in line 5 of Amendment No. 17, change the parenthetical phrase to read "(FmHA Instructions 1924–A and 424.5)."

3. On page 19302, in the first column, in the 6th line, under Amendment No. 18, change the parenthetical phrase to read, "(FmHA Instruction 1924–A and 424.5)."

Date: December 16, 1987.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 87–29292 Filed 12–21–87; 8:45 am]
BILLING CODE 3410–07–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 125

Procurement Automated Source System

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is hereby amending its regulations establishing a schedule of fees for services provided in conjunction with the Procurement Automated Source System.

EFFECTIVE DATE: January 1, 1988.

FOR FURTHER INFORMATION CONTACT: Robert J. Moffitt, Deputy Associate Administrator for Procurement Assistance, 1441 L Street NW., Room 600, Washington, DC 20416, (202) 653–6635.

SUPPLEMENTARY INFORMATION: The Small Business Administration maintains the Procurement Automated Source System (PASS) through a private contractor and allows small and large businesses and Government agencies direct access to the system by use of a PASS identification number (PASS ID). Formerly SBA charged direct access users only $24 an hour for on-line time.

Because direct access PASS users receive a valuable benefit and the system is expensive to operate, the SBA is establishing a schedule of fees that is more reflective of the cost and value of on-line PASS use in § 125.10(b). The schedule will charge non-SBA PASS users $50 per hour of PASS usage, and each PASS ID holder will be charged a minimum monthly fee of $50 which will be offset against its first hour of PASS usage. The rate of $50 per hour is supported by a recent cost analysis of PASS time. Each PASS user is entitled to two copies of the PASS User Guide for each PASS ID it uses. There will also be a charge for extra copies of the PASS User Guide and other materials.

With implementation of a fee schedule, the private contractor will be responsible for billing non-SBA direct access users quarterly. Direct access users include nongovernmental organizations and Government agencies.

The Notice of Proposed Rulemaking (NPRM) concerning PASS fees was published in the **Federal Register** on August 25, 1987, with a 30-day comment period. SBA received three comment letters. Two of the commenters expressed the view that $50 per hour for PASS use was too high and would be a deterrent to future use and, therefore, the per hour price should remain at $24. The third commenter objected to the implementation of a monthly minimum charge. That commenter suggested that the SBA either refrain altogether from implementing a monthly minimum charge or, in the alternative, exempt not-for-profit educational institutions from such minimum charge.

SBA has carefully considered these comments. For the reasons set forth above, we have chosen to retain the $50 per hour charge and the $50 monthly minimum charge, however. SBA believes that such fees are neither unreasonable nor unduly burdensome, either for profitmaking or for not-for-profit organizations. The increase in charges is required by the continuing increase in the costs of operating the PASS system.

Such charges are still well below any comparable commercial system and well below the actual costs of operation. Moreover, this is the first time PASS fees have been increased since 1981. Such fees comport with the President's stated policy that users of government services should pay a portion of the costs of such services.

The final rule is virtually identical to the proposed rule published on August 25, 1987, with minor changes in the language to improve clarity. The term "nongovernmental organizations" has been substituted for "large commercial firms" to clarify that the PASS system is available to not-for-profit institutions as well as to for-profit businesses. The language describing the hourly and

minimum charges has been revised to clarify that fractions of an hour over and above the first hour of PASS use will be charged on a pro rata basis. Finally, the word "monthly" in reference to user billing has been changed to "quarterly" to reflect current billing practices.

Compliance With Executive Order 12291, The Regulatory Flexibility Act (5 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

Executive Order 12291

For the purposes of E.O. 12291, SBA has determined that this final rule is not a major rule because it will not have an annual effect on the economy of $100 million or more; or cause a major increase in costs for consumers, individuals, industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based businesses to compete with foreign-based businesses in domestic or export markets.

Regulatory Flexibility Act

For purposes of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), SBA certifies that this rule will not have a significant economic impact on a substantial number of small entities. The vast majority of entities potentially affected by this rule would not be considered small for purposes of the Regulatory Flexibility Act.

Paperwork Reduction Act

This rule will not impose any reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. ch. 35.

List of Subjects in 13 CFR Part 125

Government procurement, Small business, Technical assistance.

For reasons set forth above, Title 13, Part 125 of the Code of Federal Regulations, is amended as follows:

PART 125—[AMENDED]

1. The authority citation for Part 125 is revised to read as follows:

Authority: Secs. 5(b)(6), 8 and 15 of the Small Business Act, 72 Stat. 384, as amended (15 U.S.C. 631, *et seq.*), 31 U.S.C. 9701, 9702, 96 Stat. 1051).

§ 125.10 [Redesignated as § 125.11]

2. Section 125.10 is redesignated as § 125.11.

§ 125.9 [Redesignated as § 125.10 and Amended]

3. Section 125.9(i) is redesignated as § 125.10, Procurement Automated Source System (PASS) and amended by redesignating the third through ninth sentences as paragraph (a) "Inclusion in PASS," and by adding a new paragraph (b) to read as follows:

§ 125.10 [Amended]

* * * * *

(b) *Access to PASS.* Government agencies and nongovernmental organizations that provide substantial prime contracting and/or subcontracting opportunities to small business firms may be provided direct access to PASS if they so desire. All those with direct access to PASS (Pass users) will receive an identification number (PASS ID) and will be charged $50 per hour for PASS usage with a minimum monthly charge of $50 per PASS ID. Each fraction of an hour over and above the first hour will be charged on a pro rata basis. All users will be billed quarterly, and all fees will be paid directly to the private contractor selected by SBA to operate PASS. The contractor will bill SBA on a monthly basis for the operation of PASS in accordance with the current contract provisions minus any fees it collects from non-SBA users. Each PASS ID entitles a direct access user to two PASS User Guides at no charge. Additional copies of the User Guides and copies for anyone without a PASS ID can be purchased from SBA or the contractor for $25 each. The on-line usage fee, User Guide fee and any other related fee may be changed by SBA from time to time as required to reflect increased costs. Any fee change will be effective upon publication of a notice in the **Federal Register.**

Dated: December 7, 1987.

James Abdnor,

Administrator.

[FR Doc. 87-29246 Filed 12-21-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-161-AD; Amdt. 39-5815]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which requires inspection and replacement, as necessary, of the nacelle strut midspar fuse pins. This action amends the applicability and is prompted by the discovery by the manufacturer that three additional airplanes may have had the older style fuse pins installed as an option in production. This condition, if not corrected, could result in failure of the pin and separation of the engine from the airplane.

EFFECTIVE DATE: January 19, 1988.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Dan R. Bui, Airframe Branch, ANM-120S; telephone (206) 431-1919. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The FAA issued AD 86-22-01, Amendment 39-5437 (51 FR 36002; October 8, 1986), to require periodic inspection, or replacement, of older style nacelle strut midspar fuse pins to prevent their failure by fatigue initiated by corrosion. Failure of a pin can lead to separation of the affected engine from the airplane.

This amendment is prompted by the discovery by the manufacturer that three airplanes, which may have had the older style fuse pins installed as an option in production, were not included in the effectivity of Boeing Service Bulletin 747-54-2063, Revision 4, dated June 6, 1986, which was referenced in the applicability statement of AD 86-22-01.

The FAA has reviewed and approved Revision 5 to Boeing Service Bulletin 747-54-2063, dated September 24, 1987, which adds three foreign-operated airplanes to the effectivity of the service bulletin.

The aforementioned additional airplanes are not registered in the United States. However, the FAA has determined it is necessary to amend the existing AD to add the additional airplanes because, in accordance with existing provisions of the bilateral airworthiness agreements, the FAA must issue the AD to advise foreign

regulatory agencies of an unsafe condition that may exist or develop on affected foreign-registered airplanes.

Because this amendment in no way changes the substantive requirements of the existing AD, and because the change in applicability of the existing AD does not affect any U.S. operator, the FAA has determined that notice and public procedure hereon are unnecessary, and good cause exists for making this amendment effective in less than 30 days.

For this reason, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedure (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities.

List of Subjects in CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By amending AD 86-22-01, Amendment 39-5437 (51 FR 36002; October 8, 1986), by revising the applicability statement to read as follows:

BOEING: Applies to Model 747 series airplanes, listed in Boeing Service Bulletin 747-54-2063, Revision 5, dated September 24, 1987, certificated in any category. Compliance required as indicated, unless previously accomplished.

This amends AD 86-22-01, Amendment 39-5437.

This amendment becomes effective January 19, 1988.

Issued in Seattle, Washington, on December 15, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-29249 Filed 12-21-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 87-AWP-30]

Revision to Window Rock, AZ, Transition Area

AGENCY: Federal Aviation Administration, DOT.

ACTION: Correction to final rule.

SUMMARY: An error was noted in the final rule regarding revision to Window Rock, AZ transition area that was published in the **Federal Register** on November 19, 1987, (52 FR 44377) (Airspace Docket No. 87-AWP-30). This action corrects that error.

EFFECTIVE DATE: 0901 UTC, January 14, 1988.

FOR FURTHER INFORMATION CONTACT: Frank Torikai, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration (FAA), 15000 Aviation Boulevard, Lawndale, California 90261, telephone (213) 297-1648.

SUPPLEMENTARY INFORMATION:

History

Federal Register document 87-26666, published on November 19, 1987, revised the description of the Window Rock, AZ, transition area. An error was discovered in the geographical description of the revised transition area and this action corrects that error.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation Safety, Transition area.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document (87-26666), as published in the **Federal Register** on November 19, 1987, is corrected as follows:

Window Rock, AZ [Revised]

By removing "to lat. 35°31'07" N., long. 108°58'32" N.," and substituting "to lat. 35°31'07" N., long. 108°58'32" W.,".

Issued in Los Angeles, California, on December 3, 1987.

Jacqueline L. Smith,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 87-29251 Filed 12-21-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 87-ASW-33]

Establishment of Transition Area; Berclair, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule will establish a transition area at Berclair, TX. The development of a standard instrument approach procedure (SIAP) by the Department of Navy to the Navy Auxiliary Landing Field (NALF) located at Goliad Airport, Berclair, TX, has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for aircraft executing the SIAP to Goliad NALF. Coincident with this action, the airport status will change from visual flight rules (VFR) to instrument flight rules (IFR).

EFFECTIVE DATE: 0901 UTC, March 10, 1988.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530, telephone (817) 624-5561.

SUPPLEMENTARY INFORMATION:

History

On August 14, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing a transition area at Berclair, TX (52 FR 32562).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C, dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations will establish a 700-foot transition area to be located at Goliad NALF, Berclair, TX. The development by the Department of Navy of an SIAP serving the Goliad NALF has necessitated the action. The effect of this action will provide adequate controlled airspace for aircraft executing this SIAP. Coincident with this action, the airport status will change from VFR to IFR.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" and DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Berclair, TX [New]

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Goliad NALF (latitude 28°36'30" N., longitude 97°36'33" W.), within 4 miles each side of the 315° radial of the Goliad TACAN (latitude 28°37'25" N., longitude 97°37'30" W.), and extending from the 8.5-mile radius area to 11.5 miles northwest of the airport; excluding that portion that coincides with the Beeville, TX, Transition Area.

Issued in Forth Worth, TX, on December 2, 1987.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 87-29252 Filed 12-21-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 25497; Amdt. No. 1363]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of

immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC, on December 11, 1987.

Robert L. Goodrich,

Director of Flight Standards.

Adoption of The Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

§§ 97.23, 97.25, 97.27, 97.29 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective March 10, 1988*

Chester, CT—Chester, RNAV RWY 17, Amdt. 1
Meriden, CT—Meriden Markham Muni, VOR RWY 36, Amdt. 1
Meriden, CT—Meriden Markham Muni, NDB RWY 36, Amdt. 5
Oxford, CT—Waterbury-Oxford, NDB RWY 18, Amdt. 3
Oxford, CT—Waterbury-Oxford, NDB RWY 36, Amdt. 4
Oxford, CT—Waterbury-Oxford, ILS RWY 36, Amdt. 7
Oxford, CT—Waterbury-Oxford, RNAV RWY 18, Amdt. 3
Bedford, MA—Laurence G Hanscom Fld, NDB RWY 11, Amdt. 19
Bedford, MA—Laurence G Hanscom Fld, ILS RWY 11, Amdt. 22
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Newport, RI—Newport State, NDB RWY 4, Amdt. 2
Westerly, RI—Westerly State, VOR-A, Amdt. 9
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Westerly, RI—Westerly State, LOC RWY 7, Amdt. 3

** * * Effective February 11, 1988*

Gainesville, GA—Lee Gilmer Memorial, LOC RWY 4, Amdt. 4
Gainesville, GA—Lee Gilmer Memorial, NDB RWY 4, Amdt. 4
Metter, GA—Metter Muni, NDB RWY 10, Amdt. 2
Lexington, KY—Blue Grass, ILS RWY 22, Amdt. 10
Winston Salem, NC—Smith Reynolds, ILS RWY 33, Amdt. 25
Brenham, TX—Bernham Muni, NDB RWY 16, Amdt. 3

** * * Effective January 14, 1988*

San Diego (El Cajon), CA—Gillespie Field, LOC-D, Amdt. 6
Raleigh-Durham, NC—Raleigh Durham, ILS RWY 23R, Amdt. 3
Mayaguez, PR—Mayaguez, NDB RWY 09, Orig., CANCELLED
Manistee, MI—Manistee Co-Blacker, VOR RWY 9, Amdt. 8
Manistee, MI—Manistee CO-Blacker, VOR RWY 27, Amdt. 8
Houston, TX—Houston Intercontinental, ILS RWY 26, Amdt. 11
Manitowoc, WI—Manitowoc County, VOR RWY 17, Amdt. 12
Manitowoc, WI—Manitowoc County, VOR RWY 35, Amdt. 11
Manitowoc, WI—Manitowoc County, ILS RWY 17, Amdt. 1

** * * Effective December 4, 1987*

Rocky Mount, NC—Rocky Mount-Wilson, ILS RWY 4, Amdt. 12

** * * Effective November 27, 1987*

Linden, NJ—Linden, NDB-B, Amdt. 4
Manville, NJ—Kupper, VOR-A, Amdt. 4

§ 97.23 [Amended]

The FAA published an Amendment in Docket No. 25451, Amdt. No. 1361 to Part 97 of the Federal Aviation Regulations (VOL 52 FR No. 230 Page 45618; dated Tuesday, December 1, 1987) under § 97.23 effective 14 JAN 88 which is hereby amended as follows:

Fairbanks, AK—Fairbanks, Intl, HI-ILS RWY 19R, Amdt. 1 EFF 14 JAN 88 is hereby rescinded.

[FR Doc. 87-29250 Filed 12-21-87; 8:45 am]

BILLING CODE 4910-13-M

Office of the Secretary

14 CFR Parts 234 and 255

[Docket No. 44827 Amdt. Nos. 234-3 and 255-5]

Airline Service Quality Performance

AGENCY: Office of the Secretary, DOT.

ACTION: Interim final rule; request for comments.

SUMMARY: In response to a request from the Air Transport Association (ATA), the Department is amending its rule on airline service quality performance to allow computerized reservations system (CRS) vendors 10 days, instead of 5 days, to include in their CRS displays the flight delay and cancellation information submitted by the participating carriers. The Department also is amending the on-time performance code portion of Part 255 to require participating carriers to assign a letter code to flights scheduled to operate three times or less during a month in their reports to CRS vendors. These changes are effective immediately to give carriers sufficient time to make adjustments; however, comments are requested on them and changes may be made later in response to comments. In addition, a reply to a question posed by Pan American World Airways (Pan Am)

is discussed and appended to this document for information purposes.

DATES: This amendment is effective on December 22, 1987. Comments should be filed in Docket 44827 and received no later than January 6, 1988.

ADDRESS: Documentary Services Division, C-55, U.S. Department of Transportation, 400 7th Street SW., Room 4107, Washington, DC 20590. Six copies should be submitted. Commenters should include a self-addressed postcard if they desire notification of receipt of their comments by the Department.

FOR FURTHER INFORMATION CONTACT: Sam Whitehorn or Gwyneth Radloff, at 400 7th Street, SW., Washington, DC 20590, (202) 366-9307; Barry Molar, at the above address or by phone at (202) 366-9285; Shelton Jackson, at the above address or by phone at (202) 366-5397; or Robin Caldwell, at the above address or by phone at (202) 366-9059.

SUPPLEMENTARY INFORMATION: By a final rule published in the **Federal Register** on September 9, 1987, the Department of Transportation (DOT or Department) added a new Part 234, which requires 14 air carriers to submit certain flight performance data to the Department each month for public dissemination, and to CRS vendors for incorporation into their primary schedule and availability displays. The information provided to vendors must be in the form of a single-digit on-time performance code summarizing each flight's monthly performance as reported in the data submitted to DOT. The carriers must deliver their monthly summary codes to their CRS vendors by the fifteenth day of the following month. The final rule also amended 14 CFR 255.4 to require CRS vendors to include that information on their primary schedule and availability displays within 5 days after receiving it. In addition, the carriers must provide this information to consumers, upon request, through the carriers' ticketing or reservations agents.

ATA Request

In an October 2, 1987 letter to DOT, the Air Transport Association (ATA) requested a permanent waiver of the 5-day display requirement in § 255.4(e)(1) in favor of a 10-day period. ATA stated that the most efficient mechanism for transmitting the on-time performance codes is for the carriers to insert them as an additional data element in the tapes they submit to the vendors to update their CRS schedules. The rule's monthly deadlines for submitting and displaying the summary codes preclude easy integration into the existing process for updating the CRS schedule displays, since CRS vendors generally arrange their loading dates during low usage periods for their computer systems, which usually occur on weekends. These loading dates are arranged a year or more in advance.

Because of the varying lead times needed by carriers and the use of weekends, data submitted, for example, on the 15th of any month, particularly if it falls on a Thursday or Friday, may not be loaded by a vendor until the following weekend (the 24th or 25th) to accommodate the preparation and loading schedules of the carriers, third party transmitters and the vendors. Consequently, ATA believes that, although vendors usually will achieve a shorter turn-around time, a 10 day period will give them the flexibility they need to mesh the requirements of the rule with existing industry practice, without incurring the unnecessary costs of creating an independent reporting system for this data. A copy of the ATA letter has been placed in Docket 44827.

We believe that ATA's request has merit. In developing the disclosure rule, we sought to minimize the impact of the requirements on the carriers and maximize the usefulness of the information provided to consumers. Amending the rule will not affect the usefulness of the data to consumers, and any possible adverse impact of delaying the availability of the next month's data to consumers for an extra 5 days will be minimal. It also should eliminate the costs to carriers of creating and maintaining a separate updating system to accommodate our rule.

In addition, ATA pointed out that § 255.4(e)(1) does not reflect the involvement of third parties in the transmission of the data to the CRS vendors, although the preamble recognized their role. ATA asks that third parties be mentioned in that section. We have made this technical change. ATA also asked the Department to clarify the meaning of "within" and "less than" 15 minutes. We addressed this definition in the Reporting Directive issued by the DOT's Research and Special Programs Administration, Office of Aviation Information Management (OAIM) on October 5, 1987.

De Minimis Flight Codes

The Department also is amending the on-time performance code requirements. In response to questions posed by two carriers with respect to compliance with Parts 234 and 255, we are requiring that carriers assign the letter "U" as the code for any flight scheduled to operate three times or less during a month in their report to CRS vendors. This change recognizes that if a flight has a small number of operations in one month, the delay rate may be somewhat misleading to consumers. This may be particularly true where a carrier adds a flight with only a few operations during a holiday period. A minimal number of operations may be an unreliable basis for indicating the on-time performance of that particular flight when its on-time performance code is displayed the next month. Therefore, number codes for these flights shall not be reported by carriers for CRS display purposes. This is consistent with the treatment of new flights, which are given the letter code "N". Carriers must continue to submit on-time performance data on these flights to the Department.

We therefore are amending 14 CFR 255.4(e)(1) to extend the 5-day deadline to 10 days to accommodate the existing system for updating schedules and to include a reference to third parties.

In addition, we are amending § 234.8 (a) and (b)(4) to require carriers to assign the letter code "U" to any flight that operates three times or less during a month in their reports to CRS vendors.

Pan Am Request

In an October 20 letter to DOT, Pan American, who was not signatory to ATA's request, stated that it supports the ATA request if DOT clarifies the CRS vendors' obligation to load each month's on-time performance data for all carriers, including the vendors own data, at the same time. Pan American believes that carriers that are also vendors will be able to manipulate the timing of loading of their on-time performance data to place themselves in the most favorable competitive position. Pan American urges the Department to issue an information directive clarifying the vendors, obligation to load all of a month's data at the same time and further suggests that a specific date be set for loading, *e.g.*, the third Saturday of the following month.

On November 4, 1987, American Airlines sent DOT a letter that supported the ATA request and called Pan Am's concern unfounded, because 14 CFR 255.4(d) requires a vendor to apply the same standards of care and timeliness to loading information concerning other carriers as it applies to the loading of its own data. Our reply to Pan Am's letter stressed that DOT's current rules explicitly prohibit these actions by carrier/vendors.

Copies of Pan Am's letter, American's letter and our reply have been placed in the docket.

Procedural Matters

While we are adopting the 10-day and "U" provisions immediately, we request comments on them. Our decision to make this change now is predicated on the impending requirements of Parts 234 and 255 for carriers to provide on-time performance data to vendors and for vendors to load and display the data in CRS's. These requirements take effect during the month of December; to avoid any confusion, immediate adoption is required. If comments demonstrate a need for a subsequent change, we will do so.

Under section 553(d) of the Administrative Procedure Act, the Department finds good cause to issue this final rule without prior notice and opportunity for comment. The amendment relieves a restriction and will enable CRS vendors to meet the CRS display requirements of the rule and integrate the required data into their current system for updating information. Immediate adoption will give carriers submitting data to CRS vendors, or to a third party for transmission to the vendors, sufficient time to make the necessary adjustments; notice and comment procedures would not permit this.

The Department has determined that this rule is not major within the meaning of Executive Order 12291 or significant under the Department's regulatory policies and procedures. This amendment will make only minor changes that will ease implementation of the CRS display requirement. A regulatory evaluation was prepared in developing the initial rule and is available in the docket. Therefore, no further evaluation is necessary. I certify that this rule will not have a significant economic impact on a substantial number of small entities for the purposes of the Regulatory Flexibility Act. None of the affected certificated air carriers or CRS vendors are small businesses within the meaning of the Act. The Department also has concluded that this rule will not have a significant impact on the environment under the National Environmental Policy Act. The rule does not impose any additional paperwork reporting requirements.

List of Subjects

14 CFR Part 234

Advertising, Air carriers, Consumer protection, Reporting requirements, Travel agents.

14 CFR Part 255

Advertising, Air carriers, Air transportation-foreign, Antitrust, Consumer protection, Essential air service, Travel agents.

Issued in Washington, DC, on December 11, 1987.

Jim Burnley,

Secretary of Transportation.

For the reasons set forth in the preamble, the Department amends Title 14, Chapter II, Subchapter A of the Code of Federal Regulations as follows:

PART 234—AIRLINE SERVICE QUALITY PERFORMANCE REPORTS

1. The authority for Part 234 continues to read:

Authority: 49 U.S.C. 1302, 1324, 1374, 1377 and 1381; 5 U.S.C. 553(e) and 14 CFR 302.38.

2. Section 234.8(a) is amended by revising the second sentence to read as follows:

§ 234.8 Calculation of on-time performance codes.

(a) * * * The calculations shall be performed for each reportable flight, except those scheduled to operate three times or less during a month. * * *

3. Section 234.8(b)(4) is revised to read as follows:

(b) * * *

(4) In the case of a new flight, carriers shall assign a performance code consisting of the letter "N." A flight that is not a new flight shall be assigned the performance code calculated for the flight that it replaces, even if the two flights do not have the same flight number. In the case of a flight scheduled to operate three times or less during a month, carriers shall assign a performance code consisting of the letter "U."

* * * * *

PART 255—CARRIER-OWNED COMPUTER RESERVATION SYSTEMS

1. The authority of Part 255 continues to read:

Authority: 49 U.S.C. 1302, 1324, 1374, 1381, 1389 and 1502.

2. Section 255.4(e)(1) is revised to read as follows:

§ 255.4 Display of information.

* * * * *

(e) * * *

(1) Within 10 days after receiving the information from participating carriers or third parties, each vendor shall include in all primary schedule and availability displays the on-time performance code for each nonstop flight segment and one-stop or multi-stop single plane flight, for which a participating carrier provides a code.

* * * * *

Editorial Note: This Appendix will not appear in the Code of Federal Regulations.

Mr. David M. O'Connor,

Special Counsel, Government and International Affairs, Pan American World Airways, Inc., 1660 L Street, NW., Washington, DC 20036.

Dear Mr. O'Connor: Thank you for your letter of October 20, 1987, requesting clarification of the procedures for loading the new on-time flight performance codes into CRS vendor flight displays, as required by our recent Airline Service Quality Rule.

You have asked whether our new rule would permit a carrier vendor to incorporate its own flight performance codes into its CRS on a different schedule than that used for other carriers. You suggest that the vendors, under the rule, could load their own data as early as the first of the month or as late as the 20th of the month. This flexibility then could give such vendors an advantage over other carriers in certain circumstances. You claim that this flexibility contravenes the Department's intention to provide consumers with simple, straightforward information on each flight's on-time performance. To address this potential problem, you suggest that a specific date be used for all loading of data or that the loading be done in accordance with a set schedule for the vendors and other carriers.

Under 14 CFR 255.4(d)(1), vendors are required to apply the same standards of care and *timeliness* to loading information concerning other carriers as to the loading of their own data. This provision clearly would prohibit the types of actions you view as possible. The Department would be concerned if vendors appeared to be loading their own data and other carriers' during different time periods, or if the loading dates fluctuated from month to month. We trust that all of the carriers subject to the rule are aware of this potential problem and will not hesitate to bring it to our attention. In addition, as you note, our recent rule does not envision providing vendors with the opportunity to manipulate the loading of data to provide themselves with a more favorable position *vis-a-vis* their competitors. If such circumstances do arise, the Department has ample authority to address the situation under the CRS rules and section 411 of the Federal Aviation Act.

We do not see a need to set a specific date for loading the on-time performance codes, although our rule requires that the data be available on CRS screens within 5 days of receipt by the vendor. (As you note, the Air Transport Association has asked that vendors be given 10 days to load the data.) The rule does provide some flexibility in an effort to minimize costs to the carriers and vendors.

Sincerely,

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-29138 Filed 12-21-87; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket No. RM87-36-001, et al.]

Interpretation of Comprehensive Plans Under Section 3 of the Electric Consumers Protection Act

Issued: December 16, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting rehearing solely for the purpose of further consideration.

SUMMARY: On October 20, 1987, the Federal Energy Regulatory Commission (Commission) issued a final rule (Order No. 481), published at 52 FR 39905 (October 26, 1987), interpreting a state or Federal "comprehensive plan" under section 3(b)(4) of the Electric Consumers Protection Act of 1986. In this order, the Commission grants rehearing of its decision solely for the purpose of further consideration.

EFFECTIVE DATE: December 16, 1987.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lane, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 357-8530.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

On October 20, 1987, the Commission issued a final rule (Order No. 481) interpreting a state or a Federal "comprehensive plan" under section 3(b)(4) of the Electric Consumers Protection Act of 1986.[1]

Pursuant to 18 CFR 385.713 (1987), the Commission has received six timely requests for rehearing in this proceeding.[2] In order to review more fully the arguments raised, the Commission grants rehearing of the order solely for the purpose of further consideration. This order is effective on the date of issuance. This action does not constitute a grant or denial of the requests on their merits in whole or in part.

Pursuant to Rule 713(d) of the Commission's Rules of Practice and Procedure (18 CFR 385.713(d) (1987), no answers to the requests for rehearing will be entertained by the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-29239 Filed 12-21-87; 8:45 am]

BILLING CODE 6717-01-M

[1] Pub. L. 99-495, 100 Stat. 1234 (1986).

[2] State of California Water Resources Control Board, Commonwealth of Kentucky Department for Environmental Protection, Vermont Agency of Natural Resources, New York State Department of Environmental Conservation, State of Minnesota Department of Natural Resources, and American Rivers *et al.* The State of Washington Department of Ecology and the Northwest Power Planning Council filed requests for rehearing out-of-time.

18 CFR Parts 4, 11, and 375

[Docket No. RM87-6-000; Order No. 487]

Fees for Hydroelectric Project Applications to Reimburse Fish and Wildlife Agencies

Issued: December 16, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is establishing fees to be paid by certain hydroelectric license or exemption applicants to reimburse fish and wildlife agencies for their costs in setting mandatory terms and conditions for those projects.

EFFECTIVE DATE: This rule is effective January 21, 1988.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lane, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8530.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is adopting new regulations governing applications from hydroelectric licenses and exemptions to implement section 7(c) of the Electric Consumers Protection Act of 1986 (ECPA),[1] which amended section 30 of the Federal Power Act (FPA).[2] The rule requires hydroelectric license and exemption applicants for projects that are required to meet the terms and conditions of fish and wildlife agencies under section 30(c) of the FPA to reimburse those agencies for any reasonable costs incurred in setting terms and conditions to protect fish and wildlife resources. The fish and wildlife agencies to be reimbursed under the rule are the U.S. Department of Commerce, National Marine Fisheries Service (NMFS), the U.S. Department of the Interior, United States Fish and Wildlife Service (USFWS) and the state agency responsible for fish and wildlife resources.

II. Background

ECPA was enacted on October 16, 1986. Section 7(c) of ECPA amended section 30 of the FPA to add a new section 30(e). The new section requires the Commission to establish fees that will be adequate to reimburse fish and wildlife agencies for any reasonable costs incurred in connection with studies or reviews they carry out in establishing terms and conditions pursuant to section 30(c) of the FPA.[3]

This fee provision applies to applicants for projects "required to meet the terms and conditions set by fish and wildlife agencies under [section 30(c) of the FPA]".[4] Projects within the scope of FPA section 30(c) must meet the terms and conditions that the USFWS, NMFS, and state fish and wildlife agencies each determine are appropriate for the protection of fish and wildlife resources.[5] The terms and conditions established by these agencies are commonly referred to as "mandatory terms and conditions."

Prior to ECPA, two categories of applicants were subject to the terms and conditions of fish and wildlife agencies under FPA section 30(c). These were applicants for exemptions from licensing under section 30 of the FPA (conduit exemptions) and applicants for exemptions from licensing requirements under sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (PURPA) (5-MW exemptions).[6] Section

[1] Pub. L. No. 99-495, 100 Stat. 1243 (1986).

[2] 16 U.S.C. 823a (1982).

[3] This new section 30(e) of the FPA states:

[t]he Commission, in addition to the requirements of section 10(e), shall establish fees which shall be paid by an applicant for a license or exemption for a project that is required to meet the terms and conditions set by fish and wildlife agencies under subsection (c). Such fees shall be adequate to reimburse the fish and wildlife agencies referred to in subsection (c) for any reasonable costs incurred in connection with any studies or other reviews carried out by such agencies for purposes of compliance with this section. The fees shall, subject to annual appropriations Acts, be transferred to such agencies by the Commission for use solely for purposes of carrying out such studies and shall remain available until expended.

[4] *Id.*

[5] Prior to the amendment by ECPA, section 30(c) of the FPA authorized only the USFWS and state fish and wildlife agencies to set mandatory terms and conditions. Section 7(b) of ECPA amended section 30(c) of the FPA to include NMFS as an agency with mandatory conditioning authority.

[6] 16 U.S.C. 2705, 2708 (1982).

8(a) of ECPA amended section 210 of PURPA to establish a third category of applicants subject to these terms and conditions. This new section states that projects located at new dams or diversions must "[meet] the terms and conditions set by fish and wildlife agencies under the same procedures as provided for under section 30(c) of the Federal Power Act" in order to be eligible for benefits under section 210 of PURPA (PURPA benefits).[7] Therefore, in addition to conduit exemption applicants and 5–MW exemption applicants, license applicants seeking PURPA benefits for projects located at new dams or diversions are now within the mandatory terms and conditions requirement of section 30(c) of the FPA.

Section 8(b) of ECPA, however, excepts four classes of projects located at a new dam or diversion seeking PURPA benefits from having to meet terms and conditions under section 30(c) of the FPA. These are: (1) Projects for which the application was filed and accepted before ECPA's enactment; [8] (2) projects for which an application was filed before ECPA's enactment but accepted for filing within three years after enactment; [9] (3) projects for which the application was filed after ECPA's enactment but before April 16, 1988, if the applicant can successfully demonstrate that it had committed "substantial monetary resources" relating to the filing of an acceptable application before the date of enactment; [10] and (4) projects located at a Government dam at which non-Federal hydroelectric development is permissible.[11] The fee requirement of section 30(e) of the FPA therefore does not apply to new dam or diversion license applicants seeking PURPA benefits that fall within these four classes, since these applicants are excepted from having to meet terms and conditions under FPA section 30(c). Regarding exemptions, however, section 8(c) of ECPA states that "[n]othing in this Act shall affect the application of section 30(c) of the Federal Power Act to any exemption issued after the enactment of this Act." Pursuant to section 8(c) of ECPA, therefore, no new dam or diversion exemption applicant seeking PURPA benefits is exempted from having to meet the terms and conditions of fish and wildlife agencies under FPA section 30(c).[12]

To implement the fee requirement in ECPA, the Commission, on March 18, 1987, published a notice of proposed rulemaking (NOPR).[13] Twenty-five commenters responded to the NOPR.[14] In response to requests from the NMFS and USFWS, the Commission also held a public hearing on the NOPR on June 15, 1987.[15]

III. Discussion

A. Overview

Under this rule, a prospective new dam or diversion license applicant must inform each fish and wildlife agency in writing whether it will seek PURPA benefits. Similarly, a prospective exemption applicant must notify each fish and wildlife agency that it will seek an exemption from licensing. Within the comment period during the second stage consultation process, [16] a fish and wildlife agency will provide an applicant with an estimate of the costs it will incur in setting mandatory terms and conditions for the proposed project. An agency may provide a potential applicant with updated cost estimates. When the application is filed, an applicant must file this most recent estimate with the Commission along with a cash payment of 50 percent of the estimated fees or a bond for 100 percent of the estimated fees. If an applicant does not pay the appropriate amount or post a bond, its application will be rejected.

Within 60 days after the date for setting mandatory terms and conditions, or 60 days after an application is withdrawn, rejected or dismissed, a fish and wildlife agency must file with the Commission a final statement of costs for determining mandatory terms and conditions. After receiving this statement, the Commission will submit a bill to the applicant stating any amounts to be paid by, or refunded to, the applicant.

Any amounts owed must be paid within 45 days after the bill is issued. Similarly, the Commission will notify the Treasury to refund any overpayments within 45 days from the date of the bill. The Commission will not grant a license or exemption until the applicant pays the full amount of fees owed.

Disputes concerning the bill must be submitted within 45 days from the date the bill is issued. A disputing applicant has the burden of proof in showing that an agency's cost statement is unreasonable. However, the agency must provide, upon request, the applicant and the Commission with any documentation supporting its cost statement. The Director of the Office of Hydropower Licensing (OHL) will determine the reasonableness of a disputed cost statement in writing. This decision is appealable to the Commission.

B. General Comments

Generally, commenters support the Commission's efforts to implement the fees requirement contained in ECPA.[17] Some commenters argue that the Commission did not adequately consult with interested Federal and state agencies prior to issuing the NOPR.[18] They further argue that the proposed fee system is administratively and fiscally unworkable and should be withdrawn so that the Commission can consult with interested agencies prior to issuing new proposed regulations.

The Commission disagrees. The Commission staff met with representatives of the USFWS and NMFS prior to issuing the NOPR. A public hearing was also held on the NOPR. To the extent that certain agencies express concerns regarding the mechanics of receiving reimbursements, the Commision believes that these administrative issues can be resolved outside of this rulemaking.[19]

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[7] Section 210(j)(3) of PURPA as added by section 8(a) of ECPA.

[8] *See* section 8(b)(2) of ECPA.

[9] *See* section 8(b)(3) of ECPA.

[10] *See* section 8(b) of ECPA.

[11] *See* section 8(a) of ECPA.

[12] Section 8(d) of ECPA also requires the Commission to conduct a study as to whether PURPA benefits should be available to hydroelectric projects at new dams or diversions.

[13] Fees for Hydroelectric Project Applications to Reimburse Fish and Wildlife Agencies, 52 FR 8463 (Mar. 18, 1987); IV FERC Stats. and Regs. ¶ 32,426.

[14] The list of commenters is contained in Appendix A.

[15] The list of participants is contained in Appendix B.

[16] Prior to filing an application, a potential applicant must undergo a three stage consultation process with the appropriate Federal and state agencies. 18 CFR 4.38(b)(2)(iv) (1987).

[17] *See e.g.*, Alabama Power Company, Edison Electric Institute, Georgia Power, State of Wisconsin Department of Natural Resources (Wisconsin), Mega Renewables, State of Nevada Department of Wildlife, Utah Office of Planning and Budget, State of Washington, Department of Game (Washington Game), Long Lake Energy Corporation (Long Lake), National Hydropower Association, New Hampshire Fish and Game, Idaho Fish and Game, and the State of Wyoming Game and Fish Department (Wyoming).

[18] *See* The National Wildlife Federation and Friends of the Earth (National Wildlife Federation), the U.S. Department of the Interior (Interior), the State of Colorado, Division of Wildlife (Colorado), and the International Association of Fish and Wildlife Agencies. Comments were submitted by both the Fish and Wildlife Service and the Office of Environmental Project Review at the Department of the Interior. Comments by both are substantially similar and they are referred to jointly as Interior.

[19] *See* U.S. Department of the Interior, the U.S. Department of Commerce, and Colorado.

Commission staff will work closely with these agencies to resolve these matters.

C. Applicability of ECPA Fees

The NOPR proposed that fees would be charged for applications filed either before or after ECPA's enactment to reimburse any agency costs incurred after ECPA. The final rule does not adopt this proposed provision. In this rule, fees will apply only to applications filed after the effective date of this rule for costs incurred after this rule's effective date. The Commission is adopting the proposal in response to several commenters that argue that it would be unfair to subject applicants to fees retroactively.[20] Furthermore, the Commission believes that, in order to arrange for any necessary funding, a potential applicant must know, in advance, what fee liability will attach when the application is filed.

The NOPR proposed that fees would apply only if a license or exemption application was actually filed. Several commenters argue that agencies should be reimbursed for some or all of their costs even if an application is never subsequently filed.[21]

The Commission emphasizes that ECPA specifically states that fees are to be paid by "applicants." The Commission believes that Congress would have specifically so stated if it had intended that fees would apply to those individuals who never file an application. In fact, Congress did not provide for this type of fee.

The U.S. Department of the Interior suggests that if the final rule does not expand the definition of "applicant", the Commission should require developers to undergo what are now pre-filing consultations after they submit a formal application. However, the purpose of those consultations is to determine whether a project is feasible and to what extent fish and wildlife studies are necessary. Therefore, the Commission declines to adopt this suggestion.

Some commenters argue that costs incurred after a license or exemption is issued, such as monitoring, compliance and enforcement costs, should also be reimbursed.[22] As with costs incurred if no application is filed, the Commission does not believe that reimbursement for these activities was intended by ECPA. Also, requiring reimbursement of monitoring, compliance and enforcement costs would impose an open-ended obligation on licensees and exemptees. Licensees and exemptees would never be able to determine their costs liability throughout the life of the project. This would place an inordinate burden on developers, particularly small developers.

The New York Department of Environmental Consideration (New York) states that since the NOPR proposed that an applicant could indicate that it would seek PURPA benefits after the initial stage of consultation, a fish and wildlife agency learning later of such an intent would have to reconstruct the record of its expenditures. The Commission recognizes that in these circumstances, an agency may have to reconstruct a record of review costs in order to support a request for reimbursement. The Commission does not believe that this requirement is unreasonably burdensome. The Commission will permit the agency to assess reasonable costs incurred to develop this cost reconstruction and include them in the agency's cost statement.

The NOPR proposed to reimburse only those costs that were incurred in the process of establishing mandatory terms and conditions. Several commenters argue that costs not specifically related to setting mandatory terms and conditions should also be reimbursable,[23] including costs related to "other environmental concerns" provided for under section 210 of PURPA.[24] ECPA clearly states, however, that only fish and wildlife review and study costs are eligible for reimbursement. Therefore, the Commission will allow reimbursement only for costs incurred in the process of setting mandatory terms and conditions.

Washington Fisheries suggests that the definition of a fish and wildlife agency should be expanded to include Indian tribes that participate in the consultation and review process in establishing terms and conditions. The Commission disagrees. While Indian tribes may perform functions similar to a state agency in this area, ECPA specifically provides for reimbursement only for state and Federal agencies.

D. Procedures for Implementing ECPA Fees

1. Fee Schedules

In the NOPR, the Commission proposed that agencies would be reimbursed for the actual costs they incurred in performing reviews and studies. Some commenters argue that, instead of actual costs, the Commission should establish a standard filing fee or estimated schedule of payments.[25] They suggest that the Commission establish a fee ceiling so that applicants would know the limits of their fees liability. Furthermore, they reason that estimates of actual fees do not provide an applicant with adequate notice of its potential liability.

The Commission does not believe that it is appropriate at this time to establish a representative fee structure to fully reimburse all the various fish and wildlife agencies for their actual costs of reviews and studies. The costs incurred by the agencies for a given project in one state may be appreciably different from those in another. For example, states with a large number of pending proposals can spread their administrative costs over all these projects. On the other hand, states that consider only a few applications would incur greater unit costs for studies and reviews. Also, the need for certain types of studies may be more common in some states than in others, allowing states conducting more studies to spread their costs over a greater number of projects. Since the Commission does not believe that it can establish a workable fee schedule at this time, it will not establish a fee ceiling in this proceeding. However, as the Commission gains experience in these matters, it will consider whether standard fees or a fee ceiling might be appropriate. For the present, the Commission believes that the cost estimates provided by /the agencies during the pre-filing consultation process should normally provide an applicant with a reasonable assessment of its fees liability. Therefore, an artificial fee ceiling is not necessary to provide adequate notice of potential liability.

2. Pre-Payment of Estimated Costs

In the NOPR, the Commission proposed that an applicant would pay, when it files its application, 50 percent of the costs the agencies estimated they will incur at the second stage of consultations.[26] Several commenters argue that this up-front payment is unduly burdensome.[27] By contrast, Washington Fisheries suggests that 75 percent of the estimated costs is more appropriate. The Small Business

[20] *See e.g.*, Mega Renewables, Long Lake, National Hydropower Association.

[21] *See e.g.*, Washington Game, State of Washington, Department of Fisheries (Washington Fisheries).

[22] *See e.g.*, National Wildlife Federation, U.S. Department of Commerce, U.S. Department of the Interior.

[23] *See e.g.*, National Wildlife Federation, U.S. Department of Commerce.

[24] *See* New York.

[25] *See e.g.*, Long Lake, National Hydropower Association.

[26] *See* note 16, *infra*.

[27] *See* National Hydropower Association, Long Lake, Small Business Administration.

Administration (SBA) suggests that as an alternative to this cash payment, an applicant should be allowed to use another mechanism to guarantee payment, such as a surety bond, letter of credit, or corporate guarantee.

In response to SBA's comments, the Commission will allow an applicant to post an unlimited term surety bond for 100 percent of the estimated costs as an alternative to the 50 percent cash payment proposed in the NOPR. The Commission is requiring that a bond be from a company that is on the Department of the Treasury's (Treasury) list of approved surety companies. Approved companies are listed in Treasury's Circular 570, which is published every year in the **Federal Register**. If a company providing a bond is subsequently deemed to be unacceptable pursuant to Treasury's regulations, the applicant must acquire a new bond from an approved company. The Commission is permitting the use of bonds, since they would decrease the financial burden on the applicant, while guaranteeing payment to the agencies.

The NOPR proposed that an estimate would be based on an amount developed in the second stage of consultations. However, the Commission believes that if an agency bases the amount on its most recent cost estimate, the cash payment or the bond will more closely approximate an agency's final costs. The regulations require an applicant to file copies of the most recent cost estimates provided by the agencies together with the cash payment or bond when it files its application.

The SBA also suggests that the Commission modify the 50 percent payment requirement, on a case-by-case basis, if an applicant cannot supply a bond. The Commission recognizes that this might reduce the burden on individual applicants. However, as the Commission explained in the NOPR, the reason for requiring this 50 percent payment is to assure that an agency's total costs will be reimbursed. The Commission believes that to allow applicants to pay less than this amount would not meet that objective. Moreover, to involve the Commission in these individual determinations without having an application on file for reference would not be administratively feasible.

3. Filing Deadlines

In the NOPR, the Commission proposed to require an agency to submit a bill to the Commission 45 days after it establishes mandatory terms or conditions or 45 days after an application was withdrawn, rejected or dismissed. In response to several commenters that argue that the 45-day limit was inadequate,[28] the Commission is extending the 45-day period to 60 days. Furthermore, an agency may request, in writing, additional time for submitting these cost statements.[29] However, an agency that does not submit a cost statement or extension request within the prescribed time period waives its right to collect fees for that project.

The NOPR proposed that fish and wildlife agencies would be required to submit mandatory terms and conditions for new dams and diversions seeking PURPA benefits within 60 days after the Commission issues a notice accepting the application for filing.[30] Some commenters argue that the 60-day period is inadequate.[31]

The 60-day period for setting mandatory terms and conditions for new dam and diversion projects proposed in the NOPR reflects current Commission practice. The Commission currently provides agencies 60 days to establish mandatory terms and conditions for projects proposed for exemption from licensing.[32] Therefore, the Commission believes that 60 days is sufficient time to allow an agency to establish terms and conditions for a new dam or diversion project. The Commission will consider, however, an agency's written request for an extension of time to set terms and conditions.

The Commission also is not adopting a suggestion of Washington Game that the Commission notify state agencies 20 days prior to the end of the application comment period. In the Commission's experience state agencies already receive public notices routinely. For the Commission to provide a second notice would be redundant and unnecessarily burdensome.

[28] *See* U.S. Department of the Interior, Wyoming, U.S. Department of Commerce.

[29] There may be instances in which a fish and wildlife agency incurs conditioning-related costs after the prescribed time period for filing mandatory terms and conditions. The Commission will determine the appropriate reimbursements to be made in these instances on a case-by-case basis. *See* Scott Paper Company, 34 FERC ¶ 61,216 (1986) (If a fish and wildlife agency informs the Commission, within the prescribed time period for filing mandatory terms and conditions, that it is unable to set mandatory terms and conditions because of a lack of information, the Commission will keep the application on file and give the applicant a chance to file any reasonably necessary information found lacking by the agency).

[30] Commission regulations already specify the time in which fish and wildlife agencies must establish terms and conditions for conduit exemptions and 5-MW exemptions. 18 CFR 4.93 and 4.105 (1987).

[31] *See* U.S. Department of the Interior, Wyoming, U.S. Department of Commerce.

[32] *See* note 32, *supra*.

4. Cost Estimate Procedures

The National Hydropower Association argues that agencies should be required to inform both the applicant and the Commission if it appears at any time that an agency's initial or revised cost estimate would be substantially exceeded. The Commission recognizes that an inaccurate estimate might greatly prejudice an applicant. Therefore, in order to keep an applicant informed of its cost liability, the final rule requires agencies to notify a potential applicant or applicant and the Commission if the agency expects that its initial or revised cost estimate would be exceeded by more than 25 percent.

The commenter also suggests that the Commission should provide applicants with semi-annual statements of accrued reimbursable costs in order to further apprise an applicant of its fees liability. The Commission does not believe that it is necessary to establish such a system. An applicant can request this information directly from the agency.

Several commenters request that the final rule make clear that an agency's initial cost estimate could be modified as reviews and studies progress.[33] The Commission emphasizes that all estimated costs can be revised as the agency acquires better data on a specific project. However, it is requiring that the amount of the bond posted or cash payment made by an applicant when it files an application to be based on the agency's most recent cost estimate before the application is filed.

5. Review Procedures

In the dispute resolution procedures outlined in the NOPR, an applicant would be required to pay any undisputed amounts to the Commission within 45 days after the final bill was issued to the applicant by the Commission. The final rule adopts a different approach. In order to ensure that an agency's costs are reimbursed and to prevent spurious appeals, the final rule requires a disputing applicant to pay the full amount of the bill, subject to refund, pending the outcome of any dispute resolution proceedings.

Several commenters suggest that, when the Director of OHL makes a determination as to the reasonableness of agency costs or necessity of studies and reviews, the Director must support any decision in writing.[34] The final rule adopts this suggestion.

[33] *See* U.S. Department of the Interior, National Wildlife Federation.

[34] *See e.g.*, National Wildlife Foundation, Washington Game.

Several commenters disagree with the proposal in the NOPR to allow the Director of OHL to review agency cost statements disputed by applicants.[35]

These commenters argue that the agencies alone should determine what studies are necessary. They state that it is the agency's responsibility, not the Commission's, to establish the scope of the studies. They argue that since fish and wildlife agencies establish terms and conditions, it is not appropriate for the Commission to disallow these types of expenditures on the basis that certain studies were unnecessary.

The Commission disagrees. ECPA specifically provide that fish and wildlife agencies should be reimbursed "for any reasonable costs" in performing studies and reviews. Since the Commission is responsible for establishing fees to reimburse "reasonable costs," it necessarily has the authorty to determine whether the costs submitted by agencies are reasonable. The Commission has a statutory obligation under ECPA to ensure that agencies are not unreasonable in making their cost statements and study requirements under FPA section 30(c). The Commission however, will give due weight to the agencies expertise and judgment in making these determinations. Therefore, the Director of OHL is granted the authority to review the cost statements submitted by agencies, if disputed by the applicants. This review may be based on documentation submitted by the agency as well as the applicant. In determining whether the costs submitted are reasonable, the Director of OHL will consider such factors as (1) whether the time spent reviewing the project was reasonable, (2) whether the costs submitted were in line with the time spent reviewing the project and Federal expenditure guidelines, (3) whether the studies completed were duplicative, or not reasonable considering the fish and wildlife resources affected by the proposed project, and (4) whether the costs were not necessary to set terms and conditions for that project.

Some commenters state that the dispute resolution procedures in the NOPR improperly placed the burden of proof on the agencies, rather than the contesting applicant.[36] In the final rule, the Commission is placing the burden on the applicant to show that an agency's cost are unreasonable. However, the Commission recognizes that the agency has the documentation that an applicant would need to make this showing. Therefore, the final rule requires the agency to supply the disputing applicant or the Commission with the documentation necessary to support its costs statement.

Washington Game requests that the Commission define what "reasonable costs" are. Similarly, New York recommends that the final rule describe the types of studies and project review activities that are reimbursable.

While the final rule establishes general guidelines for review of an agency's costs, the Commission cannot adequately define all the costs that can be termed reasonable in a generic rulemaking because it cannot enumerate all of the studies and reviews that an agency may deem reimburseable. Instead, it will rely on agencies to interpret the statute and submit cost statements for those costs they believe should be chargeable.

Wisconsin and the National Hydropower Association suggest that as part of any review of reasonableness, the Director of OHL consider factors other than those enumerated in the NOPR. The Commission does not believe it is necessary to specify all of the evidence that can be submitted in a cost dispute. If an applicant wishes to introduce the intial estimate as part of the record in a dispute proceeding, it may do so.

Several commenters express a concern that they might not have an opportunity to appeal a decision of the Director of OHL that certain cost were not reimbursable.[37] The Commission emphasizes that any decision by the Director of OHL may be appealed to the full Commission.[38]

The National Wildlife Federation suggests that the final rule establish specific time frames in which the Director of OHL must act to review costs disputed by applicants and make payments to the agencies. The Commission declines to do so since to establish review deadlines may force premature decisions in instances where additional analysis is required to reach an informed decision. The Commission will act as expeditiously as possible in making any payments to the agencies.

Long Lake states that under 31 U.S.C. 3711(a)(2) the Commission cannot compromise a claim of more than $20,000.[39] To make sure that disputed proceedings involve amounts less than $20,000, the commenter suggests that the Director of OHL only consider the amount of fees in dispute, not the total amount for which the applicant may be liable. However, the dispute resolution proceedings in this rule establish an applicant's fee liability. This is the amount of the claim the United States has against the applicant, not a "compromise" of that claim within the meaning of 31 U.S.C. 3711(a)(2).

6. ECPA Fees and FPA Section 10(e) Charges

The NOPR proposed that any fees collected by the NMFS and USFWS would be deducted from the annual charges assessed against hydroelectric licensees under section 10(e) of the FPA.[40] These annual charges reimburse the Federal government for the costs of administering Part I of the FPA. The Commission is clarifying that, the USFWS and NMFS must deduct any fees paid into their Treasury accounts in a given year from the amount they submit to the Commission when they report their annual costs under Part I of the FPA. These agencies file an annual report to the Commission to enable the Commission to determine the annual charges the Commission assesses against licensees, pursuant to section 10(e) of the FPA.

The U.S. Department of the Interior and the U.S. Department of Commerce request that the Commission clarify the difference between cost reimbursement under FPA section 10(e) and the fees collected under this rule.

Under FPA section 10(e), the Commission establishes annual charges that are assessed against licensees to reimburse the entire Federal Government's cost in administering Part I of the FPA. These charges are paid into the Commission's treasury account and are used to offset the Commission's appropriations.

By contrast, fees charged and collected under this rule are to reimburse specific agencies for work performed on specific projects. Fees will be deposited in a suspense account until the entire fee on a specific project is collected. Fees paid in full will be reported to the Treasury Department in the receipt account designated by the USFWS and the NMFS to receive these amounts. Fees collected to reimburse state agencies will be sent from the

[35] *See*, U.S. Department of the Interior, U.S. Department of Commerce, National Wildlife Federation.

[36] *See e.g.*, National Wildlife Federation.

[37] *See e.g.*, National Wildlife Federation.

[38] 18 CFR 385.1902 (1987).

[39] 31 U.S.C. 3711(a)(2) (1982) states that "[t]he head of an executive or legislative agency * * * may compromise a claim of the Government of not more than $20,000 (excluding interest) that has not been referred to another executive or legislative agency for further collection action." For claims exceeding this amount, the authority to accept any compromise rests solely with the Department of Justice. 4 CFR 103.1(b) (1987).

[40] 16 U.S.C. 803(e) (1982).

suspense account to the appropriate state agency.

7. Cost Reimbursement Procedure

The Commission believes it is important to clarify its role in collecting study and review costs on behalf of the fish and wildlife agencies. While the Commission will attempt to collect these fees, it will not be liable to any agency for amounts that are not collected. If the total amount collected on behalf of several agencies is not sufficient to meet all of the agencies' costs, the amount the Commission does collect will be distributed to the agencies on a *pro rata* basis, with one exception. That is, if an agency's final cost statement is greater than its most recent statement to the applicant at the time of filing, the difference between the estimate and the final costs will not be reimbursed to that agency until any amounts owed to the other agencies have been paid.

Long Lake asks whether the fees assessed under the rule are to be treated as a debt to the United States. Long Lake suggests that the final rule incorporate debt collection provisions into the Commission's regulations.

The Commission considers these fees to be debts to the Federal government and therefore subject to the debt collection provisions contained in 31 U.S.C. 3711 and 4 CFR Parts 103 and 104. Since the Commission is bound by these provisions, it believes that it is not necessary to incorporate them into its regulations.

New York argues that the final rule should include specific provisions for reimbursements of costs from each competing applicant at a proposed site. The Commission does not believe additional regulations are necessary. This situation is already accommodated in the regulations proposed and adopted in this final rule.

The U.S. Department of the Interior argues that the proposed billing procedures are inconsistent with its procedures; that the proposed reimbursement procedures are unworkable; and that the USFWS cannot commence work on a project without advance payment of all the estimated review and study costs. Instead of the reimbursement procedures outlined in the NOPR, the commenter proposed an alternative mechanism.

The Commission believes, however, that it is not possible to fashion a rule that can take into account all of the internal procedures of the various fish and wildlife agencies. The Commission also declines to adopt the commenter's alternative proposal since, among other reasons, the commenter's proposal requires a potential applicant to pay, in full, the estimated review and study costs even if an application is never subsequently filed and includes payments for review and study costs after a license or exemption is issued.

E. Miscellaneous Issues

The final rule adopts a suggestion that the definitions of "cost statement" and "supporting documentation" in the NOPR be merged [41] since the terms are essentially the same.

The NOPR proposed that a potential new dam or diversion license applicant would be required to notify resource agencies, at the initial stage of consultation, if it intended to seek PURPA benefits. The Commission adopts the U.S. Department of Interior's suggestion that this notice must be in writing, with a copy to the Commission.

Long Lake argues that the NOPR implied that a state agency would not be reimbursed if it was unable to establish terms and conditions. The Commission did not intend this result. The Commission clarifies that an agency would be reimbursed for its costs even if it is unable to set terms or conditions.

The National Wildlife Federation and the U.S. Department of the Interior state that in the NOPR, the definition of "mandatory terms and conditions" did not refer to ECPA or to the Fish and Wildlife Coordination Act [42] and suggest that the Commission include a reference to these statutes in the definition of "mandatory terms and conditions." The Commission does not believe such a reference is necessary because the definition proposed in the NOPR is adequate to describe the types of reviews and studies for setting terms and conditions that are reimbursable.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) [43] generally requires a description and analysis of a final rule that will have a significant economic impact on a substantial number of small entities.[44] Specifically, if an agency promulgates a final rule under the Administrative Procedure Act [45], a final RFA analysis must contain (1) a statement of the need for an objective of the rule, (2) a summary of the issues raised by the public comments in response to any initial regulatory flexibility analysis, and the agency response to those comments, and (3) a description of significant alternatives to the rule consistent with the stated objectives of the applicable statute that the agency considered and ultimately rejected.

The broad purpose of the RFA is to ensure more careful and informed agency consideration of rules that may significantly affect small entities and to encourage analysis of these rules as well as the agency's consideration of alternative approaches that may better resolve any unnecessary costly or adverse effects on small entities.

In this preamble, the Commission presents its reasons for this agency action, its objectives, and the legal basis for this rulemaking. As discussed, the rule establishes fees to be paid to the Commission by hydroelectric applicants to reimburse Federal and state fish and wildlife agencies for the costs of reviews and studies in establishing mandatory terms and conditions under section 30(e) of the FPA. The rule does not duplicate, overlap or conflict with any other relevant Federal rule.

This rule would affect applicants for:

1. Projects exempt from licensing under section 30 of the FPA (conduit exemptions);

2. Projects exempt from licensing under section 405 or 408 of PURPA (5-MW exemptions); and

3. Certain projects at new dams and diversions seeking benefits under section 210 of PURPA.

In 1986, there were 17 applications filed for conduit exemptions, 39 applications filed for 5-MW exemptions, and 33 applications filed for PURPA benefits at new dams or diversions. Of these applications the Commission estimates that 90 percent were filed by small entities under the definition in the RFA.[46]

The Commission realizes that the proposed fee requirement may have a significant impact on a substantial number of small entities. If a proposal may have significant economic impact on a substantial number of small entities, section 603(c) of the RFA requires the Commission to discuss significant alternatives to the proposal.

The NOPR specifically requested comments as to how to reduce the economic impact on small entities. The final rule adopts a suggestion that will significantly reduce this burden. In the final rule, an applicant may post a surety bond in lieu of paying 50 percent

[41] *See* U.S. Department of the Interior and U.S. Department of Commerce.

[42] 16 U.S.C. 661-666c (1982).

[43] 5 U.S.C. 601-602 (1982).

[44] *Id.* at section 604(a).

[45] *Id.* at section 553.

[46] The RFA defines a small entity as a small business, small organization or small governmental jurisdiction. Small businesses are defined under the Act as for-profit enterprises which are independently owned and operated and are not dominant in their field

of the estimated review and study costs upon filing an application.

Additionally, the Commission could consider reducing or eliminating fees for small entities. However, in establishing the fees in this rule, the Commission is implementing the mandate of Congress in ECPA that fish and wildlife agencies be reimbursed for the costs of reviews or studies incurred in certain types of hydroelectric projects. Therefore, the Commission believes that in this rulemaking, it has met the purposes of the RFA given the constraints set by ECPA.

V. Paperwork Reduction Act Statement

The information collection provisions in this final rule are being submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act [47] and OMB's regulations.[48] Interested persons can obtain information on the information collection provisions in this rule by contracting the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (Attention: Ellen Brown (202) 357-5311). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission).

VI. Effective Date

This final rule is effective January 21, 1988. If OMB has not approved this final rule by the effective date of this rule, the effective date of the rule will be suspended. In case of such suspension, the Commission will issue a public notice to that effect.

List of Subjects

18 CFR Part 4

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 11

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

In consideration of the foregoing, the Commission amends Parts 4, 11, and 375, Chapter I Title 18, Code of Federal Regulations, as set forth below.

[47] 44 U.S.C. 3501-3520 (1982).

[48] 5 CFR 1320.12 (1987).

By the Commission.

Lois D. Cashell,

Acting Secretary.

PART 4—LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATION OF PROJECT COSTS

1. The authority citation in Part 4 is revised to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791a–825r, as amended by the Electric Consumers Protection Act of 1986, Pub. L. No. 99–495; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645 (1982), Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); EO 12009, 3 CFR 142 1978 Comp. p. 142.

2. In § 4.30, paragraph (b)(9) is revised to read as follows:

§ 4.30 Applicability and definitions.

(b) * * *

(9) "Fish and wildlife agencies" means that the United States Fish and Wildlife Service, the National Marine Fisheries Service, and any state agency with administrative management over fish and wildlife resources of the state or states in which a small conduit hydroelectric power project, or a qualifying hydroelectric small power production facility, as defined in § 292.203(c) of this chapter, is or will be located.

* * * * *

3. In § 4.32, paragraph (c)(4) is added to read as follows:

§ 4.32 Acceptance for filing or rejection.

* * * * *

(c) * * *

(4) For an application for a license seeking benefits under section 210 of the Public Utility Regulatory Policies Act of 1978, as amended, for a project that would be located at a new dam or diversion, circulate the public notice issued for the application under paragraph (c)(2)(i) of this section to interested agencies at the time the applicant is notified that the application is accepted for filing. If a particular agency does not comment within 60 days from the date of issuance of the notice, that agency will be presumed to have no comment on or objection to the license requested. Any comments submitted by a fish and wildlife agency must include any specific terms or conditions that the agency has determined are necessary to prevent loss of, or damage to, fish and wildlife resources or otherwise to carry out the provisions of the Fish and Wildlife Coordination Act, except those terms or conditions that may be included in Exhibit E of the license application.

* * * * *

4. In § 4.38, paragraph (a) is amended by adding a new sentence to the end of the paragraph to read as follows:

§ 4.38 Pre-filing consultation requirements.

(a) * * * An applicant for an exemption from licensing or an applicant for a license seeking benefits under section 210 of the Public Utility Regulatory Policies Act, as amended, for a project that would be located at a new dam or diversion must, in addition to meeting the requirements of this section, comply with the consultation requirements in § 4.301.

* * * * *

5. A new Subpart M, consisting of §§ 4.300 through 4.305, is added to read as follows:

Subpart M—Fees Under Section 30(e) of the Act

Sec.

§ 4.300 Purpose, definitions, and applicability.

(a) *Purpose.* This subpart implements the amendments of section 30 of the Federal Power Act enacted by section 7(c) of the Electric Consumers Protection Act of 1986 (ECPA). It establishes procedures for reimbursing fish and wildlife agencies for costs incurred in connection with applications for an exemption from licensing and applications for licenses seeking benefits under section 210 of the Public Utility Regulatory Policies Act of 1978, as amended, for a project that would impound or divert the water of a natural watercourse by means of a new dam or diversion.

(b) *Definitions.* For the purposes of this subpart—

(1) "Cost" means an expenditure made by a fish and wildlife agency:

(i) On or after the effective date of this regulation for an application filed on or after the effective date of this regulation; and

(ii) Directly related to setting mandatory terms and conditions for a proposed project pursuant to section 30(c) of the Federal Power Act.

(2) "Cost statement" means a statement of the total costs for which a fish and wildlife agency requests reimbursement including an itemized schedule of costs including, but not limited to, costs of fieldwork and testing, contract costs, travel costs, personnel

costs, and administrative and overhead costs.

(3) "Mandatory terms and conditions" means terms and conditions of a license or exemption that a fish and wildlife agency determines are appropriate to prevent loss of, or damage to, fish and wildlife resources pursuant to section 30(c) of the Federal Power Act.

(4) "New dam or diversion license applicant" means an applicant for a license for a project that would impound or divert the water of a natural watercourse by means of a new dam or diversion, as defined in section 210(k) of the Public Utility Regulatory Policies Act of 1978, as amended.

(5) "PURPA benefits" means benefits under section 210 of the Public Utility Regulatory Policies Act of 1978, as amended.

(6) "Section 30(c) application" means an application for an exemption from licensing or a new dam or diversion license application seeking PURPA benefits.

(c) *Applicability.* Except as provided in paragraph (d) of this section, this subpart applies to:

(1) Any application for exemption filed on or after the effective date of these regulations for costs incurred by fish and wildlife agencies after the effective date of these regulations;

(2) Any new dam or diversion license application seeking PURPA benefits filed on or after April 16, 1988;

(3) Any new dam or diversion license application seeking PURPA benefits filed after the effective date of this regulation, but before April 16, 1988, if the applicant fails to demonstrate in a monetary resources petition filed with the Commission pursuant to § 292.208 of this chapter that, before October 16, 1986, it had committed substantial monetary resources directly related to the development of the proposed project and to the diligent and timely completion of all requirements of the Commission for filing an acceptable application; and

(4) Any new dam or diversion license application seeking PURPA benefits filed after the effective date of this regulation, if the application is not accepted for filing before October 16, 1989.

(d) *Exceptions.* (1) This subpart does not apply to any new dam or diversion license application seeking PURPA benefits if the moratorium described in section 8(e) of ECPA is in effect. The moratorium will end at the expiration of the first full session of Congress following the session during which the Commission reports to Congress on the results of the study required under section 8(d) of ECPA.

(2) This subpart does not apply to any new dam or diversion license application seeking PURPA benefits for a project located at a Government dam, as defined in section 3(10) of the Federal Power Act, at which non-Federal hydroelectric development is permissible.

§ 4.301 Notice to fish and wildlife agencies and estimation of fees prior to filing.

(a) *Notice to agencies*—(1) *New dam or diversion license applicants.* During the initial stage or pre-filing agency consultation under § 4.38(b)(1), a prospective new dam or diversion license applicant must inform each fish and wildlife agency consulted in writing with a copy to the Commission whether it will seek PURPA benefits.

(2) *Exemption applicants.* During the initial stage of pre-filing agency consultation under § 4.38(b)(1), a prospective exemption applicant must notify each fish and wildlife agency consulted that it will seek an exemption from licensing.

(b) *Estimate of fees.* Within the comment period provided in § 4.38(b)(2)(iv), a fish and wildlife agency must provide a prospective section 30(c) applicant with a reasonable estimate of the total costs the agency anticipates it will incur to set mandatory terms and conditions for the proposed project. An agency may provide an applicant with an updated estimate as it deems necessary. If an agency believes that its most recent estimate will be exceeded by more than 25 percent, it must supply the prospective applicant or applicant with a new estimate and submit a copy to the Commission.

§ 4.302 Fees at filing.

(a) *Filing requirement.* A section 30(c) application must be accompanied by a fee or a bond, together with copies of the most recent cost estimates provided by fish and wildlife agencies pursuant to § 4.301(b).

(b) *Amount.* The fee required under paragraph (a) of this section must be in an amount equal to 50 percent of the most recent cost estimates provided by fish and wildlife agencies pursuant to § 4.301(b). In lieu of this amount, an applicant may provide an unlimited term surety bond from a company on the Department of Treasury's list of companies certified to write surety bonds. Applicants bonded by a company whose certification by the Department of the Treasury lapses must provide evidence of purchase of another bond from a certified company. A bond must be for an amount no less than 100 percent of the agencies' most recent cost estimates pursuant to § 4.301(b).

(c) *Failure to file.* The Commission will reject a section 30(c) application if the applicant fails to comply with the provisions of paragraphs (a) and (b) of this section.

§ 4.303 Post-filing procedures.

(a) *Submission of cost statement*—(1) *Accepted applications.* Within 60 days after the last date for filing mandatory terms and conditions pursuant to § 4.32(c)(4) for a new dam or diversion license application seeking PURPA benefits, § 4.93(b) for an application for exemption of a small conduit hydroelectric facility, or § 4.105(b)(1) for an application for case-specific exemption of a small hydroelectric power project, a fish and wildlife agency must file with the Commission a cost statement of the reasonable costs the agency incurred in setting mandatory terms and conditions for the proposed project. An agency may request, in writing, along with any supporting documentation an extension of this 60-day period.

(2) *Rejected, withdrawn or dismissed applications.* The Director of the Office of Hydropower Licensing (Director) will, by letter, notify each fish and wildlife agency if a section 30(c) application is rejected, withdrawn or dismissed. Within 60 days from the date of notification, a fish and wildlife agency must file with the Commission a cost statement of the reasonable costs the agency incurred prior to the date the application was rejected, withdrawn, or dismissed. An agency may submit a written request for an extension of this 60-day period along with any supporting documentation.

(b) If an agency has not submitted a cost statement or extension request within the time provided in paragraph (a)(2) of this section, it waives its right to receive fees for that project pursuant to this subpart.

(c) *Billing.* After the Commission receives a cost statement from all fish and wildlife agencies as required by paragraph (a) of this section, the Commission will bill the section 30(c) applicant. The bill will show:

(1) The cost statement submitted to the Commission by each fish and wildlife agency;

(2) Any amounts already paid by the applicant pursuant to § 4.302; and

(3)(i) The amount due, if the amount already paid by the applicant pursuant to § 4.302 is less than the total of all the cost statements; or

(ii) The amount to be refunded to the applicant, if the amount already paid by

the applicant pursuant to § 4.302 is more than the total of all the cost statements.

(d) Within 45 days from the date of a bill issued under paragraph (b) of this section, a section 30(c) applicant must pay in full to the Commission any remaining amounts due on the cost statements regardless of whether any of these amounts are in dispute.

(e) *Dispute procedures*—(1) *When to dispute.* Any dispute regarding the reasonableness of any fish and wildlife agency cost statement must be made within 45 days from the date of a bill issued under paragraph (b) of this section.

(2) *Assessment of disputed cost statements* The burden of showing that an agency's cost statement is unreasonable is on the applicant. However, a fish and wildlife agency must supply the disputing applicant and the Commission with the documentation necessary to support its cost statement. The Director of the Office of Hydropower Licensing will determine the reasonableness of a disputed fish and wildlife agency cost statement. The Director's decision will be in writing. The Director will notify the disputing applicant and the fish and wildlife agency of the decision by letter. Any decision of the Director may be appealed by either party pursuant to 18 CFR 385.1902. In deciding whether or not a disputed cost statement is reasonable, the Director will review the application, the disputed cost statement and any other documentation relating to the particular environmental problems associated with the disputing applicant's proposed project. The Director will consider such factors as:

(i) The time the fish and wildlife agency spent reviewing the application;

(ii) The proportion of the cost statement to the time the fish and wildlife agency spent reviewing the application;

(iii) Whether the fish and wildlife agency's expenditures conform to Federal expenditure guidelines for such items as travel, per diem, personnel, and contracting; and

(iv) Whether the studies conducted by the agency, if any, are duplicative, limited to the proposed project area, unnecessary to determine the impacts to or mitigation measures for the particular fish and wildlife resources affected by the proposed project, or otherwise unnecessary to set terms and conditions for the proposed project.

(3) *Unreasonable cost statements.* If the Director determines that a disputed fish and wildlife agency cost statement is unreasonable, the disputing applicant and the fish and wildlife agency will be afforded 45 days from the date of notification to attempt to reach an agreement regarding the reimbursable costs of the agency. If the disputing applicant and the fish and wildlife agency fail to reach an agreement on the disputed cost statement within 45 days from the date of notification, the Director will determine the costs that the agency should reasonably have incurred.

(f) *Refunds.* (1) If the amount paid by a section 30(c) applicant under § 4.302 exceeds the total amount of the cost statements submitted by fish and wildlife agencies under paragraph (a) of this section, the Commission will notify the Treasury to refund the difference to the applicant within 45 days from the date of the bill issued to the applicant under paragraph (b) of this section.

(2) If the amount paid by a section 30(c) applicant exceeds the amount determined to be reasonable by the Director pursuant to paragraph (d)(2) of this section, the Commission will notify the Treasury to refund the difference to the applicant within 45 days of the resolution of all dispute proceedings.

§ 4.304 Payment.

(a) A payment required under this subpart must be made by check payable to the United States Treasury. The check must indicate that the payment is for "ECPA Fees."

(b) If a payment required under this subpart is not made within the time period prescribed for making such payment, interest and penalty charges will be assessed. Interest and penalty charges will be computed in accordance with 31 U.S.C. 3717 and 4 CFR Part 102.

(c) The Commission will not issue a license or exemption, unless the applicant has made full payments of any fees due under § 4.303(c).

§ 4.305 Enforcement

(a) The Commision may take any appropriate action permitted by law if a section 30(c) applicant does not make a payment required under this subpart. The Commission will not be liable to any fish and wildlife agency for failure to collect any amounts under this subpart.

(b) If the Commission is unable to collect the full amount due by a section 30(c) applicant on behalf of more than one agency, the amount the Commission does collect will be distributed to the agencies on a *pro-rata* basis except if an agency's cost statement is greater than its most recent estimate to the applicant under § 4.301(b), then the difference between the estimate and the cost statement will not be reimbursed until any amounts owed to other agencies have been paid.

PART 11—[AMENDED]

6. The authority citation for Part 11 is revised to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791a–825r (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); EO 12009, 3 CFR 1978 Comp., p. 142.

7. In § 11.1, paragraph (f) is added to read as follows:

§ 11.1 Costs of administration

* * * * *

(f) In making their annual reports to the Commission on their costs in administering Part I of the Federal Power Act, the United States Fish and Wildlife Service and the National Marine Fisheries Service are to deduct any amounts that were deposited into their Treasury accounts during that year as reimbursements for conducting studies and reviews pursuant to section 30(e) of the Federal Power Act.

PART 375—THE COMMISSION

8. The authority citation for Part 375 continues to read as follows:

Authority: Electric Consumers Protection Act of 1986, Pub. L. 99–495; Department of Energy Organization Act, 42 U.S.C. 7101–7352, EO 12009, 3 CFR 1978 Comp., p. 142; Administrative Procedure Act, 5 U.S.C. 553; Federal Power Act, 16 U.S.C. 791–828c, as amended; Natural Gas Act, 15 U.S.C. 717–717w, as amended; Natural Gas Policy Act of 1978, 15 U.S.C. 3301 *et seq.*; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601 *et seq.*, as amended.

9. In § 375.314, paragraph (ff) is added to read as follows:

§ 375.314 Delegations to the Director of the Office of Hydropower Licensing.

* * * * *

(ff) Pass upon the reasonableness of disputed agency cost statements pursuant to § 4.303(d) of this chapter.

* * * * *

Note: This Appendices will not appear in the Code of Federal Regulations.

Appendix A

(1) Alabama Power Company
(2) Dairyland Power Cooperative
(3) Edison Electric Institute
(4) Georgia Power Company
(5) Long Lake Energy Corporation
(6) Mega Renewables
(7) National Hydropower Association
(8) National Wildlife Federation and Friends of the Earth
(9) State of Colorado, Department of Natural Resources, Division of Wildlife
(10) State of Idaho, Department of Wildlife

(11) State of Nevada, Department of Wildlife
(12) State of New Hampshire, Fish and Game Department
(13) State of New York, Department of Environmental Conservation
(14) State of Pennsylvania, Pennsylvania Game Commission (filed out-of-time)
(15) State of Utah, Resource Development Coordinating Committee
(16) State of Vermont, Agency of Environmental Consideration [1]
(17) State of Washington, Department of Fisheries
(18) State of Washington, Department of Game
(19) State of Wisconsin, Department of Natural Resources
(20) State of West Virginia, Department of Natural Resources
(21) State of Wyoming, Game and Fish Department
(22) United States Department of Commerce
(23) United States Department of the Interior, Fish and Wildlife Service
(24) United States Department of the Interior, Office of Environmental Project Review [2]
(25) United States Small Business Administration.

Appendix B

(1) International Association of Fish and Wildlife Agencies
(2) National Hydropower Association
(3) United States Department of Commerce, National Marine Fisheries Service
(4) United States Department of the Interior, Fish and Wildlife Service.

[FR 87-29241 Filed 12-21-87; 8:45am]
BILLING CODE 6717-01-M

18 CFR Parts 154, 270, 273, 375 and 381

[Docket No. RM86-14-000; Order No. 483]

Revisions to the Purchased Gas Adjustment Regulations; Suspension of Effective Date

December 16, 1987.

AGENCY: Federal Energy Regulatory Commission DOE.

ACTION: Final Rule; Notice of Suspension of Effective Date of Order.

SUMMARY: On November 10, 1987, the Federal Energy Regulatory Commission (Commission) issued a final rule in Docket No. RM86-14-000. (52 FR 43854 (Nov. 17, 1987)). This notice suspends the rule's effective date of December 17, 1987, for 30 days in order to provide the Office of Management and Budget (OMB) additional time to review the final rule's information collection provisions.

EFFECTIVE DATE: The final rule in this docket is effective January 29, 1988.

FOR FURTHER INFORMATION CONTACT: Andrew S. Katz, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, Phone: (202) 357-8020.

SUPPLEMENTARY INFORMATION: Pursuant to its regulations, OMB has requested additional time to review the information collection provisions in Order No. 483, Revisions to the Purchased Gas Adjustment Regulations.[1] The Commission, therefore, suspends the effective date of Order No. 483 until January 29, 1988.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-29240 Filed 12-17-87; 4:57 pm]
BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8168]

Income Taxes; Limitation on Deduction for Nonbusiness Interest: Personal Interest

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the treatment of personal interest and the treatment and determination of qualified residence interest. The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations for the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register.** Changes to the applicable tax law were made by the Tax Reform Act of 1986. The regulations affect taxpayers other than corporations who have paid or accrued personal interest during a taxable year, and taxpayers who have paid or accrued interest on debt secured by a principal or second residence.

DATES: The regulations are effective for taxable years beginning after December 31, 1986.

FOR FURTHER INFORMATION CONTACT: Sharon L. Hall of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:LR:T) (202) 566-3288 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document amends the Income Tax Regulations (26 CFR Part 1) and the Table of OMB Control Numbers (26 CFR Part 602) to provide rules under section 163(h) of the Internal Revenue Code of 1986. Section 163(h) was added to the Code by section 511(b) of the Tax Reform Act of 1986 (Pub. L. 99-514, 100 Stat. 2246).

Explanation of Statutory Provisions

Section 163(h)(1) provides that in the case of a taxpayer other than a corporation, no deduction shall be allowed under Chapter 1 of the Internal Revenue Code for personal interest paid or accrued during the taxable year. Section 163(h)(2) defines personal interest as any interest otherwise allowable as a deduction under Chapter 1 of the Internal Revenue Code other than (a) interest paid or accrued on indebtedness properly allocable to the conduct of a trade or business (other than the trade or business of performing services as an employee), (b) investment interest, (c) interest taken into account under section 469 in computing income or loss from a passive activity, (d) qualified residence interest, or (e) interest payable under section 6601 on any unpaid portion of the tax imposed by section 2001 for the period during which an extension of time for payment of such tax is in effect under section 6163, 6166 or 6166A (as in effect before its repeal by the Economic Recovery Tax Act of 1981).

Section 163(h)(3) defines qualified residence interest as interest paid or accrued on debt that is secured by a qualified residence at the time such interest is paid or accrued. Under section 163(h)(3)(B), however, interest expense constitutes qualified residence interest only to the extent that the underlying debt, when added to the principal balance of all other debt previously secured by the qualified residence, does not exceed the lesser of (a) the fair market value of the qualified residence, or (b) the sum of the taxpayer's basis in the qualified residence (adjusted only by the cost of any improvements) plus the amount of

[1] Vermont's original comments supported the rule. It later rescinded its support.

[2] The comments by the Department of the Interior, Fish and Wildlife Service, and the Office of Environmental Project Review are substantially similar and the two are jointly referred to as the U.S. Department of the Interior in the preamble.

[1] *See* 5 CFR 1320.12 (1987).

qualified indebtedness (secured medical and educational debt). Section 163(h)(3)(C) provides that for purposes of this limitation the taxpayer's basis in the qualified residence shall not be less than the principal balance of debt incurred prior to August 16, 1986, and secured by the qualified residence on August 16, 1986. Section 163(h)(3)(D) provides that, except as provided in regulations, any determination with respect to the limitation on the amount of qualified residence interest shall be made at the time the debt is incurred.

Qualified indebtedness is defined in section 163(h)(4) as debt secured by a qualified residence which is incurred after August 16, 1986, to pay for certain medical and educational expenses, which are paid or incurred within a reasonable period of time before or after such debt is incurred.

Section 163(h)(5) defines qualified residence as the principal residence of the taxpayer and one other residence designated by the taxpayer.

Explanation of Regulatory Provisions

The regulations adopt an annual test to determine whether a taxpayer's debt secured by a qualified residence ("secured debt") exceeds the section 163(h)(3)(B) limitation on qualified residence interest. An annual approach was chosen rather than a test applied only at the time a debt is incurred because an annual approach takes account of reductions in the principal balance of secured debt and, therefore, removes the incentive to refinance a secured debt in order to redetermine the limitation. Moreover, an annual test accounts more appropriately for lines of credit, the balance of which may fluctuate from year to year.

The regulations apply the annual test by comparing the section 163(h)(3)(B) limitation with the average principal balance of the debt during the taxable year. The average balance was selected over the principal balance of the debt on a particular day during the year (such as the first day of the year or the day on which the principal balance is the highest) because the average balance more accurately reflects the amount of debt outstanding over the course of the year and is more closely associated with the amount of interest paid.

Under the regulations, a taxpayer's basis in a residence (the "adjusted purchase price") is determined as of the end of each year, instead of at the time a debt is incurred. By providing for determination of the adjusted purchase price at the end of each year, the regulations permit a taxpayer to apply a single overall limitation to all secured debts, rather than a separate limitation for each debt. In addition, the use of an end-of-year adjusted purchase price permits taxpayers to take advantage of increases in the adjusted purchase price due to home improvements without the need to refinance debt.

In contrast, however, the regulations generally require the fair market value of the residence to be determined as of the time a debt is incurred. Limiting the fair market value determination to the date a debt is incurred will minimize controversy between taxpayers and the Service because the residence's fair market value with respect to any particular debt will be determined only once and because an independent appraisal ordinarily is conducted in connection with arm's length lending transactions.

In the case of a qualified residence that is real property, the regulations provide an irrebuttable presumption that the fair market value is no less than the adjusted purchase price of the residence as of the end of the current taxable year. This presumption further reduces controversy between taxpayers and the Service over fair market value. It is believed that, in a broad range of circumstances, fair market value will in fact be at least as great as the adjusted purchase price.

These simplifications permit a taxpayer to determine whether all interest expense on secured debt is qualified residence interest by comparing the sum of the average balances for the taxable year of all secured debt to the adjusted purchase price determined as of the end of the year. If this sum is less than the adjusted purchase price, all of the interest paid or accrued on the secured debt is qualified residence interest. If the combined average balance exceeds the adjusted purchase price, the taxpayer must determine the amount of qualified residence interest using either the "simplified method" or the "exact method." (A taxpayer may use a different method for each qualified residence in each taxable year.)

Under the simplified method, the amount of qualified residence interest is determined by miltiplying the total interest paid or accrued on all of the debt secured by a qualified residence by a fraction, the numerator of which is the adjusted purchase price and the denominator of which is the combined average balance. Any disallowed interest is treated as personal interest, the deduction for which is phased out over the period 1987 through 1990.

If a taxpayer wishes to take advantage of qualified indebtedness (secured medical and educational debt) or wishes to trace interest expense on secured debt to expenditures other than personal expenditures, the taxpayer must use the exact method. Under the exact method, the amount of qualified residence interest is determined on a debt-by-debt basis by comparing each debt to the applicable debt limit determined for that debt. If the average balance for any debt is less than its applicable debt limit, all of the interest paid or accrued on that debt is qualified residence interest. If the average balance exceeds its applicable debt limit, only a portion of the interest on the debt is qualified residence interest. The treatment of the remaining interest on the debt is determined by the use of the proceeds of the debt. If, for example, the proceeds of the debt were used to purchase investment assets, the remaining interest is investment interest subject to section 163 (d).

The applicable debt limit for any debt is determined in two steps. First, the taxpayer determines the lesser of (a) the fair market value of the residence at the time the debt was secured, and (b) the sum of the adjusted purchase price (determined as of the end of the taxable year) plus the amount of qualified indebtedness for that debt and for all previously secured debt. Second, the taxpayer subtracts the average balance (or, if less, the applicable debt limit) of all previously secured debts from the amount so determined.

The regulations provide guidance on the determination of the amount of qualified indebtedness (*i.e.*, the amount of debt used to pay for qualified medical and educational expenses). If at least 90 percent of the proceeds of a secured debt are used to pay for qualified medical and educational expenses, the amount of qualified medical and educational expenses, the amount of qualified indebtedness is the average balance of the debt. If less than 90 percent of the proceeds of a secured debt are used to pay for such expenses, the amount of qualified indebtedness is the lesser of the average balance of the debt or the amount used to pay such expenses, reduced by principal payments on the debt in prior taxable years. The regulations provide rules for determining whether proceeds of a debt are used to pay for qualified medical or educational expenses. In general, a taxpayer may treat proceeds as being so used if medical or educational expenditures are made within 90 days before or after the date a debt is incurred. A taxpayer may also treat proceeds as being used to pay for such expenditures if the debt is traceable to such expenditures under the tracing rules provided in § 1.163–8T.

The regulations also provide guidance regarding the determination of the aggregate outstanding principal amount of debt which was incurred on or before August 16, 1986 and secured by the qualified residence before August 16, 1986, (*i.e.*, the amount of grandfathered debt). In general, in any year, the grandfathered amount of such debt is the average balance of the debt during the taxable year. The regulations also permit a debt incurred to refinance a grandfathered debt to itself be treated as a grandfathered debt. In cases where the taxpayer has borrowed new amounts after August 16, 1986, on a grandfathered debt or refinanced a grandfathered debt with a larger debt, the regulations provide appropriate limits on the grandfathered amount.

The regulations require that in order to be considered secured by a qualified residence, a debt must be secured by an instrument that makes the interest of the debtor in the qualified residence specific security for the payment of the debt and that is recorded in accordance with applicable State law. The regulations provide that a debt will be considered to be secured notwithstanding the fact that under an applicable State or local homestead law or other debtor protection law in effect on August 16, 1986, the security interest is ineffective or the enforceability of the security interest is restricted. This provision, which is consistent with provisions contained in pending technical corrections legislation, is intended to allow the benefit of the mortgage interest deduction despite state law impediments to securing mortgage debt. A taxpayer may elect to treat a debt that is secured by a qualified residence as if it were not secured by the residence.

The regulations provide guidance regarding the definition of a residence for purposes of section 163(h). They provide generally that a residence includes a house, condominium, cooperative, mobile home, boat or similar property which provides basic living accommodations, including sleeping space and toilet and cooking facilities. Additionally, if a portion of a residence is not used for residential purposes (*e.g.*, a room used as a home office), that portion does not qualify as a residence. In such cases, the taxpayer must allocate the fair market value and basis in the property (but not the average balance or interest on the debt) between the portion of the property used as a residence and the portion not so used.

Special Analyses

The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis therefore is not required. A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for temporary regulations. Accordingly, the temporary regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

The collection of information requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under section 3507 of the Paperwork Reduction Act.

Drafting Information

The principal author of these regulations is Sharon L. Hall of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

List of Subjects

26 CR 1.61–1—1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons set out in the preamble, Title 26, Chapter 1, Subchapter A, Part 1 and Part 602 of the Code of Federal Regulations is amended as set forth below.

PART 1—[AMENDED]

Paragraph 1. The authority for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Section 1.163–9T also issued under 26 U.S.C. 163 (h) (3) (D). * * *

Par. 2. The following new §§ 1.163–9T and 1.163–10T are added immediately after § 1.163–8T.

§ 1.163–9T Personal interest (temporary).

(a) *In general.* No deduction under any provision of Chapter 1 of the Internal Revenue Code shall be allowed for personal interest paid or accrued during the taxable year by a taxpayer other than a corporation.

(b) *Personal interest*—(1) *Definition.* For purposes of this section, personal interest is any interest expense other than—

(i) Interest paid or accrued on indebtedness properly allocable (within the meaning of § 1.163–8T) to the conduct of trade or business (other than the trade or business of performing services as an employee),

(ii) Any investment interest (within the meaning of section 163(d)(3)),

(iii) Any interest that is taken into account under section 469 in computing income or loss from a passive activity of the taxpayer,

(iv) Any qualified residence interest (within the meaning of section 163(h)(3) and § 1.163–10T), and

(v) Any interest payable under section 6601 with respect to the unpaid portion of the tax imposed by section 2001 for the period during which an extension of time for payment of such tax is in effect under section 6163, 6166, or 6166A (as in effect before its repeal by the Economic Recovery Tax Act of 1981).

(2) *Interest relating to taxes*—(i) *In general.* Except as provided in paragraph (b)(2)(iii) of this section, personal interest includes interest—

(A) Paid on underpayments of individual Federal, State or local income taxes and on indebtedness used to pay such taxes (within the meaning of § 1.168–8T), regardless of the source of the income generating the tax liability;

(B) Paid under section 453(e)(4)(B) (interest on deferred tax resulting from certain installment sales) and section 1291(c) (interest on deferred tax attributable to passive foreign investment companies); or

(C) Paid by a trust, S corporation, or other pass-through entity on underpayments of State or local income taxes and on indebtedness used to pay such taxes.

(ii) *Example.* A, an individual, owns stock of an S corporation. On its return for 1987, the corporation underreports its taxable income. Consequently, A underreports A's share of that income on A's tax return. In 1989, A pays the resulting deficiency plus interest to the Internal Revenue Service. The interest paid by A in 1989 on the tax deficiency is personal interest, notwithstanding the fact that the additional tax liability may have arisen out of income from a trade or business. The result would be the same if A's business had been operated as a sole proprietorship.

(iii) *Certain other taxes.* Personal interest does not include interest—

(A) Paid with respect to sales, excise and similar taxes that are incurred in connection with a trade or business or an investment activity;

(B) Paid by an S corporation with respect to an underpayment of income tax from a year in which the S corporation was a C corporation or with respect to an underpayment of the taxes

imposed by sections 1374 or 1375, or similar provision of State law; or

(C) Paid by a transferee under section 6901 (tax liability resulting from transferred assets), or a similar provision of State law, with respect to a C corporation's underpayment of income tax.

(3) *Cross references.* See § 1.163–8T for rules for determining the allocation of interest expense to various activities. See § 1.163–10T for rules concerning qualified residence interest.

(C) *Effective date*—(1) *In general.* The provisions of this section are effective for taxable years beginning after December 31, 1986. In the case of any taxable year beginning in calendar years 1987 through 1990, the amount of personal interest that is nondeductible under this section is limited to the applicable percentage of such amount.

(2) *Applicable percentages.* The applicable percentage for taxable years beginning in 1987 through 1990 are as follows:

1987: 35 percent
1988: 60 percent
1989: 80 percent
1990: 90 percent

§ 1.163–10T Qualified residence interest (temporary).

(a) *Table of contents.* This paragraph (a) lists the major paragraphs that appear in this section 1.163–10T.

(b) *Treatment of qualified residence interest.* Except as provided below, qualified residence interest is deductible under section 163(a). Qualified residence interest is not subject to limitation or otherwise taken into account under section 163(d) (limitation on investment interest), section 163(h)(1) (disallowance of deduction for personal interest), section 263A (capitalization and inclusion in inventory costs of certain expenses) or section 469 (limitations on losses from passive activities). Qualified residence interest is subject to the limitation imposed by section 263(g) (certain interest in the case of straddles), section 264(a) (2) and (4) (interest paid in connection with certain insurance), section 265(a)(2) (interest relating to tax-exempt income), section 266 (carrying charges), section 267(a)(2)

(interest with respect to transactions between related taxpayers) section 465 (deductions limited to amount at risk), section 1277 (deferral of interest deduction allocable to accrued market discount), and section 1282 (deferral of interest deduction allocable to accrued discount).

(c) *Determination of qualified residence interest when secured debt does not exceed adjusted purchase price*—(1) *In general.* If the sum of the average balances for the taxable year of all secured debts on a qualified residence does not exceed the adjusted purchase price (determined as of the end of the taxable year) of the qualified residence, all of the interest paid or accrued during the taxable year with respect to the secured debts is qualified residence interest. If the sum of the average balances for the taxable year of all secured debts exceeds the adjusted purchase price of the qualified residences (determined as of the end of the taxable year), the taxpayer must use either the simplified method (see paragraph (d) of this section) or the exact method (see paragraph (e) of this section) to determine the amount of interest that is qualified residence interest.

(2) *Examples.*

Example (1). T purchases a qualified residence in 1987 for $65,000. T pays $6,500 in cash and finances the remainder of the purchase with a mortgage of $58,500. In 1988, the average balance of the mortgage is $58,000. Because the average balance of the mortgage is less than the adjusted purchase price of the residence ($65,000), all of the interest paid or accrued during 1988 on the mortgage is qualified residence interest.

Example (2). The facts are the same as in example (1), except that T incurs a second mortgage on January 1, 1988, with an initial principal balance of $2,000. The average balance of the second mortgage in 1988 is $1,900. Because the sum of the average balance of the first and second mortgages ($59,900) is less than the adjusted purchase price of the residence ($65,000), all of the interest paid or accrued during 1988 on both the first and second mortgages is qualified residence interest.

Example (3). P borrows $50,000 on January 1, 1988 and secures the debt by a qualified residence. P pays the interest on the debt monthly, but makes no principal payments in 1988. There are no other debts secured by the residence during 1988. On December 31, 1988, the adjusted purchase price of the residence is $40,000. The average balance of the debt in 1988 is $50,000. Because the average balance of the debt exceeds the adjusted purchase price ($10,000), some of the interest on the debt is not qualified residence interest. The portion of the total interest that is qualified residence interest must be determined in accordance with the rules of paragraph (d) or paragraph (e) of this section.

(d) *Determination of qualified residence interest when secured debt exceeds adjusted purchase price—Simplified method*—(1) *In general.* Under the simplified method, the amount of qualified residence interest for the taxable year is equal to the total interest paid or accrued during the taxable year with respect to all secured debts multiplied by a fraction (not in excess of one), the numerator of which is the adjusted purchase price (determined as of the end of the taxable year) of the qualified residence and the denominator of which is the sum of the average balances of all secured debts.

(2) *Treatment of interest paid or accrued on secured debt that is not qualified residence interest.* Under the simplified method, the excess of the total interest paid or accrued during the taxable year with respect to all secured debts over the amount of qualified residence interest is personal interest.

(3) *Example.* R's principal residence has an adjusted purchase price on December 31, 1988, of $105,000. R has two debts secured by the residence, with the following average balances and interest payments:

Debt	Date secured	Average balance	Interest
Debt 1	June 1983	$80,000	$8,000
Debt 2	May 1987	40,000	4,800
Total		120,000	12,800

The amount of qualified residence interest is determined under the simplified method by multiplying the total interest ($12,800) by a fraction (expressed as a decimal amount) equal to the adjusted purchase price ($105,000) of the residence divided by the combined average balances ($120,000). For 1988, this fraction is equal to 0.875 ($105,000/$120,000). Therefore, $11,200 ($12,800 × 0.875) of the total interest is qualified residence interest. The remaining $1,600 in interest ($12,800–$11,200) is personal interest, even if (under the rules of § 1.163–8T) such remaining interest would be allocated to some other category of interest.

(e) *Determination of qualified residence interest when secured debt exceeds adjusted purchase price—Exact method*—(1) *In general.* Under the exact method, the amount of qualified residence interest for the taxable year is determined on a debt-by-debt basis by computing the applicable debt limit for each secured debt and comparing each such applicable debt limit to the average balance of the corresponding debt. If, for the taxable year, the average balance of a secured debt does not exceed the applicable debt limit for that debt, all of the interest paid or accrued during the taxable year with respect to the debt is qualified residence interest. If the average balance of the secured debt exceeds the applicable debt limit for that debt, the amount of qualified residence interest with respect to the debt is determined by multiplying the interest paid or accrued with respect to the debt by a fraction, the numerator of which is the applicable debt limit for that debt and the denominator of which is the average balance of the debt.

(2) *Determination of applicable debt limit.* For each secured debt, the applicable debt limit for the taxable year is equal to

(i) The lesser of—

(A) The fair market value of the qualified residence as of the date the debt is first secured, and

(B) The adjusted purchase price of the qualified residence as of the end of the taxable year,

(ii) Reduced by the average balance of each debt previously secured by the qualified residence.

For purposes of paragraph (e)(2)(ii) of this section, the average balance of a debt shall be treated as not exceeding the applicable debt limit of such debt. See paragraph (n)(1)(i) of this section for the rule that increases the adjusted purchase price in paragraph (e)(2)(i)(B) of this section by the amount of any qualified indebtedness (certain medical and educational debt). See paragraph (f) of this section for special rules relating to the determination of the fair market value of the qualified residence.

(3) *Example.* (*i*) R's principal residence has an adjusted purchase price on December 31, 1988, of $105,000. R has two debts secured by the residence. The average balances and interest payments on each debt during 1988 and fair market value of the residence on the date each debt was secured are as follows:

Debt	Date secured	Fair market value	Average balance	Interest
Debt 1	June 1983	$100,000	$80,000	$8,000
Debt 2	May 1987	140,000	40,000	4,800
Total			120,000	12,800

(*ii*) The amount of qualified residence interest for 1988 under the exact method is determined as follows. Because there are no debts previously secured by the residence, the applicable debt limit for Debt 1 is $100,000 (the lesser of the adjusted purchase price as of the end of the taxable year and the fair market value of the residence at the time the debt was secured). Because the average balance of Debt 1 ($80,000) does not exceed its applicable debt limit ($100,000), all of the interest paid on the debt during 1988 ($8,000) is qualified residence interest.

(*iii*) The applicable debt limit for Debt 2 is $25,000 ($105,000 (the lesser of $140,000 fair market value and $105,000 adjusted purchase price) reduced by $80,000 (the average balance of Debt 1)). Because the average balance of Debt 2 ($40,000) exceeds its applicable debt limit, the amount of qualified residence interest on Debt 2 is determined by multiplying the amount of interest paid on the debt during the year ($4,800) by a fraction equal to its applicable debt limit divided by its average balance ($25,000/$40,000=0.625). Accordingly, $3,000 ($4,800 x 0.625) of the interest paid in 1988 on Debt 2 is qualified residence interest. The character of the remaining $1,800 of interest paid on Debt 2 is determined under the rules of paragraph (e)(4) of this section.

(4) *Treatment of interest paid or accrued with respect to secured debt that is not qualified residence interest*—(i) *In general.* Under the exact method, the excess of the interest paid or accrued during the taxable year with respect to a secured debt over the amount of qualified residence interest with respect to the debt is allocated under the rules of § 1.163–8T.

(ii) *Example.* T borrows $20,000 and the entire proceeds of the debt are disbursed by the lender to T's broker to purchase securities held for investment. T secures the debt with T's principal residence. In 1990, T pays $2,000 of interest on the debt. Assume that under the rules of paragraph (e) of this section, $1,500 of the interest is qualified residence interest. The remaining $500 in interest expense would be allocated under the rules of § 1.163–8T. Section 1.163–8T generally allocates debt (and the associated interest expense) by tracing disbursements of the debt proceeds to specific expenditures. Accordingly, the $500 interest expense on the debt that is not qualified residence interest is investment interest subject to section 163(d).

(iii) *Special rule if debt is allocated to more than one expenditure.* If—

(A) The average balance of a secured debt exceeds the applicable debt limit for that debt, and

(B) Under the rules of § 1.163–8T, interest paid or accrued with respect to such debt is allocated to more than one expenditure,

the interest expense that is not qualified residence interest may be allocated among such expenditures, to the extent of such expenditures, in any manner selected by the taxpayer.

(iv) *Example.* (*i*) C borrows $60,000 secured by a qualified residence. C uses (within the meaning of § 1.163–8T) $20,000 of the proceeds in C's trade or business, $20,000 to purchase stock held for investment and $20,000 for personal purposes. In 1990, C pays $6,000 in interest on the debt and, under the rules of § 1.163–8T, $2,000 in interest is allocable to trade or business expenses, $2,000 to investment expenses and $2,000 to personal expenses. Assume that under paragraph (e) of this section, $2,500 of the interest is qualified residence interest and $3,500 of the interest is not qualified residence interest.

(*ii*) Under paragraph (e)(4)(iii) of this section, C may allocate up to $2,000 of the interest that is not qualified residence interest to any of the three categories of expenditures up to a total of $3,500 for all three categories. Therefore, for example, C may allocate $2,000 of such interest to C's trade or business and $1,500 of such interest to the purchase of stock.

(f) *Special rules*—(1) *Special rules for personal property*—(i) *In general.* If a qualified residence is personal property under State law (*e.g.*, a boat or motorized vehicle)—

(A) For purposes of paragraphs (c)(1) and (d)(1) of this section, if the fair market value of the residence as of the date that any secured debt (outstanding during the taxable year) is first secured by the residence is less than the adjusted purchase price as of the end of the taxable year, the lowest such fair market value shall be substituted for the adjusted purchase price.

(B) For purposes of paragraphs (e)(2)(i)(A) and (f)(1)(i)(A) of this section, the fair market value of the residence as of the date the debt is first secured by the residence shall not exceed the fair market value as of any date on which the taxpayer borrows any additional amount with respect to the debt.

(ii) *Example.* D owns a recreational vehicle that is a qualified residence under paragraph (p)(4) of this section. The adjusted purchase price and fair market value of the recreational vehicle is $20,000 in 1989. In 1989, D establishes a line of credit secured by the recreational vehicle. As of June 1, 1992, the fair market value of the vehicle has decreased to $10,000. On that day, D borrows an additional amount on the debt by using the line of credit. Although under paragraphs (e)(2)(i) and (f)(1)(i)(A) of this section, fair market value is determined at the time the debt is first secured, under paragraph (f)(1)(i)(B) of this section, the fair market value is the lesser of that amount or the fair market value on the most recent date that D borrows any additional amount with respect to the line of credit. Therefore, the fair market value with respect to the debt is $10,000.

(2) *Special rule for real property*—(i) *In general.* For purposes of paragraph (e)(2)(i)(A) of this section, the fair market value of a qualified residence that is real property under State law is presumed irrebuttably to be not less than the adjusted purchase price of the residence as of the last day of the taxable year.

(ii) *Example.* (*i*) C purchases a residence on August 11, 1987, for $50,000, incurring a first mortgage. The residence is real property under State law. During 1987, C makes $10,000 in home improvements. Accordingly, the adjusted purchase price of the residence as of December 31, 1988, is $60,000. C incurs a second mortgage on May 19, 1988, as of which time the fair market value of the residence is $55,000.

(*ii*) For purposes of determining the applicable debt limit for each debt, the fair market value of the residence is generally determined as of the time the debt is first secured. Accordingly, the fair market value would be $50,000 and $55,000 with respect to the first and second mortgage, respectively. Under the special rule of paragraph (f)(2)(i) of this section, however, the fair market value with respect to both debts in 1988 is $60,000, the adjusted purchase price on December 31, 1988.

(g) *Selection of method.* For any taxable year, a taxpayer may use the simplified method (described in paragraph (d) of this section) or the exact method (described in paragraph (e) of this section) by completing the appropriate portion of Form 8598. A taxpayer with two qualified residences may use the simplified method for one residence and the exact method for the other residence.

(h) *Average balance*—(1) *Average balance defined.* For purposes of this section, the term "average balance" means the amount determined under this paragraph (h). A taxpayer is not required to use the same method to determine the average balance of all secured debts during a taxable year or

of any particular secured debt from one year to the next.

(2) *Average balance reported by lender.* If a lender that is subject to section 6050H (returns relating to mortgage interest received in trade or business from individuals) reports the average balance of a secured debt on Form 1098, the taxpayer may use the average balance so reported.

(3) *Average balance computed on a daily basis*—(i) *In general.* The average balance may be determined by—

(A) Adding the outstanding balance of a debt on each day during the taxable year that the debt is secured by a qualified residence, and

(B) Dividing the sum by the number of days during the taxable year that the residence is a qualified residence.

(ii) *Example.* Taxpayer A incurs a debt of $10,000 on September 1, 1989, securing the debt with A's principal residence. The residence is A's principal residence during the entire taxable year. A pays current interest on the debt monthly, but makes no principal payments. The debt is, therefore, outstanding for 122 days with a balance each day of $10,000. The residence is a qualified residence for 365 days. The average balance of the debt for 1989 is $3,342 (122 x $10,000/365).

(4) *Average balance computed using the interest rate*—(i) *In general.* If all accrued interest on a secured debt is paid at least monthly, the average balance of the secured debt may be determined by dividing the interest paid or accrued during the taxable year while the debt is secured by a qualified residence by the annual interest rate on the debt. If the interest rate on a debt varies during the taxable year, the lowest annual interest rate that applies to the debt during the taxable year must be used for purposes of this paragraph (h)(4). If the residence securing the debt is a qualified residence for less than the entire taxable year, the average balance of any secured debt may be determined by dividing the average balance determined under the preceding sentence by the percentage of the taxable year that the debt is secured by a qualified residence.

(ii) *Points and prepaid interest.* For purposes of paragraph (h)(4)(i) of this section, the amount of interest paid during the taxable year does not include any amount paid as points and includes prepaid interest only in the year accrued.

(iii) *Examples—Example (1).* B has a line of credit secured by a qualified residence for the entire taxable year. The interest rate on the debt is 10 percent throughout the taxable year. The principal balance on the debt changes throughout the year. B pays the accrued interest on the debt monthly. B pays $2,500 in interest on the debt during the taxable year. The average balance of the debt ($25,000) may be computed by dividing the total interest paid by the interest rate ($25,000 = $2,500/0.10).

Example (2). Assume the same facts as in example 1, except that the residence is a qualified residence, and the debt is outstanding, for only one-half of the taxable year and B pays only $1,250 in interest on the debt during the taxable year. The average balance of the debt may be computed by first dividing the total interest paid by the interest rate ($12,500 = $1,250/0.10). Second, because the residence is not a qualified residence for the entire taxable year, the average balance must be determined by dividing this amount ($12,500) by the portion of the year that the residence is qualified (0.50). The average balance is therefore $25,000 ($12,500/0.50).

(5) *Average balance computed using average of beginning and ending balances*—(i) *In general.* If—

(A) A debt requires level payments at fixed equal intervals (*e.g.*, monthly, quarterly) no less often than semi-annually during the taxable year,

(B) The taxpayer prepays no more than one month's principal on the debt during the taxable year, and

(C) No new amounts are borrowed on the debt during the taxable year,

the average balance of the debt may be determined by adding the principal balance as of the first day of the taxable year that the debt is secured by the qualified residence and the principal balance as of the last day of the taxable year that the debt is secured by the qualified residence and dividing the sum by 2. If the debt is secured by a qualified residence for less than the entire period during the taxable year that the residence is a qualified residence, the average balance may be determined by multiplying the average balance determined under the preceding sentence by a fraction, the numerator of which is the number of days during the taxable year that the debt is secured by the qualified residence and the denominator of which is the number of days during the taxable year that the residence is a qualified residence. For purposes of this paragraph (h)(5)(i), the determination of whether payments are level shall disregard the fact that the amount of the payments may be adjusted from time to time to take into account changes in the applicable interest rate.

(ii) *Example.* C borrows $10,000 in 1988, securing the debt with a second mortgage on a principal residence. The terms of the loan require C to make equal monthly payments of principal and interest so as to amortize the entire loan balance over 20 years. The balance of the debt is $9,652 on January 1, 1990, and is $9,450 on December 31, 1990. The average balance of the debt during 1990 may be computed as follows:

Balance on first day of the year: $9,652
Balance on last day of the year: $9,450

$$\text{Average balance:} \quad \frac{\$9,652 + \$9,450}{2} = \$9,551$$

(6) *Highest principal balance.* The average balance of a debt may be determined by taking the highest principal balance of the debt during the taxable year.

(7) *Other methods provided by the Commissioner.* The average balance may be determined using any other method provided by the Commissioner by form, publication, revenue ruling, or revenue procedure. Such methods may include methods similar to (but with restrictions different from) those provided in paragraph (h) of this section.

(8) *Anti-abuse rule.* If, as a result of the determination of the average balance of a debt using any of the methods specified in paragraphs (h) (4), (5), or (6) of this section, there is a significant overstatement of the amount of qualified residence interest and a principal purpose of the pattern of payments and borrowing on the debt is to cause the amount of such qualified residence interest to be overstated, the district director may redetermine the average balance using the method specified under paragraph (h)(3) of this section.

(i) [Reserved.]

(j) *Determination of interest paid or accrued during the taxable year*—(1) *In general.* For purposes of determining the amount of qualified residence interest with respect to a secured debt, the amount of interest paid or accrued

during the taxable year includes only interest paid or accrued while the debt is secured by a qualified residence.

(2) *Special rules for cash-basis taxpayers*—(i) *Points deductible in year paid under section 461(g)(2).* If points described in section 461(g)(2) (certain points paid in respect of debt incurred in connection with the purchase or improvement of a principal residence) are paid with respect to a debt, the amount of such points is qualified residence interest.

(ii) *Points and other prepaid interest described in section 461(g)(1).* The amount of points or other prepaid interest charged to capital account under section 461(g)(1) (prepaid interest) that is qualified residence interest shall be determined under the rules of paragraphs (c) through (e) of this section in the same manner as any other interest paid with respect to the debt in the taxable year to which such payments are allocable under section 461(g)(1).

(3) *Examples.*

Example (1). T designates a vacation home as a qualified residence as of October 1, 1987. The home is encumbered by a mortgage during the entire taxable year. For purposes of determining the amount of qualified residence interest for 1987, T may take into account the interest paid or accrued on the secured debt from October 1, 1987, through December 31, 1987.

Example (2). R purchases a principal residence on June 17, 1987. As part of the purchase price, R obtains a conventional 30-year mortgage, secured by the residence. At closing, R pays 2½ points on the mortgage and interest on the mortgage for the period June 17, 1987 through June 30, 1987. The points are actually paid by R and are not merely withheld from the loan proceeds. R incurs no additional secured debt during 1987. Assuming that the points satisfy the requirements of section 461(g)(2), the entire amount of points and the interest paid at closing are qualified residence interest.

Example (3). (*i*) On July 1, 1987, W borrows $120,000 to purchase a residence to use as a vacation home. W secures the debt with the residence. W pays 2 points, or $2,400. The debt has a term of 10 years and requires monthly payments of principal and interest. W is permitted to amortize the points at the rate of $20 per month over 120 months. W elects to treat the residence as a second residence. W has no other debt secured by the residence. The average balance of the debt in each taxable year is less than the adjusted purchase price of the residence. W sells the residence on June 30, 1990, and pays off the remaining balance of the debt.

(*ii*) W is entitled to treat the following amounts of the points as interest paid on a debt secured by a qualified residence—

1987	$120=$20×6 months;
1988	$240=$20×12 months;
1989	$120=$20×6 months.
Total	$480

All of the interest paid on the debt, including the allocable points, is qualified residence interest. Upon repaying the debt, the remaining $1,920 ($2,400−$480) in unamortized points is treated as interest paid in 1990 and, because the average balance of the secured debt in 1990 is less than the adjusted purchase price, is also qualified residence interest.

(k) *Determination of adjusted purchase price and fair market value*—(1) *Adjusted purchase price*—(i) *In general.* For purposes of this section, the adjusted purchase price of a qualified residence is equal to the taxpayer's basis in the residence as initially determined under section 1012 or other applicable sections of the Internal Revenue Code, increased by the cost of any improvements to the residence that have been added to the taxpayer's basis in the residence under section 1016(a)(1). Any other adjustments to basis, including those required under section 1033(b) (involuntary conversions), and 1034(e) (rollover of gain or sale of principal residence) are disregarded in determining the taxpayer's adjusted purchase price. If, for example, a taxpayer's second residence is rented for a portion of the year and its basis is reduced by depreciation allowed in connection with the rental use of the property, the amount of the taxpayer's adjusted purchase price in the residence is not reduced. See paragraph (m) of this section for a rule that treats the sum of the grandfathered amounts of all secured debts as the adjusted purchase price of the residence.

(ii) *Adjusted purchase price of a qualified residence acquired incident to divorce.* [Reserved.]

(iii) *Examples—Example (1).* X purchases a residence for $120,000. X's basis, as determined under section 1012, is the cost of the property, or $120,000. Accordingly, the adjusted purchase price of the residence is initially $120,000.

Example (2). Y owns a principal residence that has a basis of $30,000. Y sells the residence for $100,000 and purchases a new principal residence for $120,000. Under section 1034, Y does not recognize gain on the sale of the former residence. Under section 1034(e), Y's basis in the new residence is reduced by the amount of gain not recognized. Therefore, under section 1034(e), Y's basis in the new residence is $50,000 ($120,000−$70,000). For purposes of section 163(h), however, the adjusted purchase price of the residence is not adjusted under section 1034(e). Therefore, the adjusted purchase price of the residence is initially $120,000.

Example (3). Z acquires a residence by gift. The donor's basis in the residence was $30,000. Z's basis in the residence, determined under section 1015, is $30,000. Accordingly, the adjusted purchase price of the residence is initially $30,000.

(2) *Fair market value*—(i) *In general.* For purposes of this section, the fair market value of a qualified residence on any date is the fair market value of the taxpayer's interest in the residence on such date. In addition, the fair market value determined under this paragraph (k)(2)(i) shall be determined by taking into account the cost of improvements to the residence reasonably expected to be made with the proceeds of the debt.

(ii) *Example.* In 1988, the adjusted purchase price of P's second residence is $65,000 and the fair market value of the residence is $70,000. At that time, P incurs an additional debt of $10,000, the proceeds of which P reasonably expects to use to add two bedrooms to the residence. Because the fair market value is determined by taking into account the cost of improvements to the residence that are reasonably expected to be made with the proceeds of the debt, the fair market value of the residence with respect to the debt incurred in 1988 is $80,000 ($70,000+$10,000).

(3) *Allocation of adjusted purchase price and fair market value.* If a property includes both a qualified residence and other property, the adjusted purchase price and the fair market value of such property must be allocated between the qualified residence and the other property. See paragraph (p)(4) of this section for rules governing such an allocation.

(l) [Reserved].

(m) *Grandfathered amount*—(1) *Substitution for adjusted purchase price.* If, for the taxable year, the sum of the grandfathered amounts, if any, of all secured debts exceeds the adjusted purchase price of the qualified residence, such sum may be treated as the adjusted purchase price of the residence under paragraphs (c), (d) and (e) of this section.

(2) *Determination of grandfathered amount*—(i) *In general.* For any taxable year, the grandfathered amount of any secured debt that was incurred on or before August 16, 1986, and was secured by the residence continuously from August 16, 1986, through the end of the taxable year, is the average balance of the debt for the taxable year. A secured debt that was not incurred and secured on or before August 16, 1986, has no grandfathered amount.

(ii) *Special rule for lines of credit and certain other debt.* If, with respect to a debt described in paragraph (m)(2)(i) of this section, a taxpayer has borrowed any additional amounts after August 16,

1986, the grandfathered amount of such debt is equal to the lesser of—

(A) The average balance of the debt for the taxable year, or

(B) The principal balance of the debt as of August 16, 1986, reduced (but not below zero) by all principal payments after August 16, 1986, and before the first day of the current taxable year.

For purposes of this paragraph (m)(2)(ii), a taxpayer shall not be considered to have borrowed any additional amount with respect to a debt merely because accrued interest is added to the principal balance of the debt, so long as such accrued interest is paid by the taxpayer no less often than quarterly.

(iii) *Fair market value limitation.* The grandfathered amount of any debt for any taxable year may not exceed the fair market value of the residence on August 16, 1986, reduced by the principal balance on that day of all previously secured debt.

(iv) *Examples—Example (1).* As of August 16, 1986, T has one debt secured by T's principal residence. The debt is a conventional self-amortizing mortgage and, on August 16, 1986, it has an outstanding principal balance of $75,000. In 1987, the average balance of the mortgage is $73,000. The adjusted purchase price of the residence as of the end of 1987 is $50,000. Because the mortgage was incurred and secured on or before August 16, 1986 and T has not borrowed any additional amounts with respect to the mortgage, the grandfathered amount is the average balance, $73,000. Because the grandfathered amount exceeds the adjusted purchase price ($50,000), T may treat the grandfathered amount as the adjusted purchase price in determining the amount of qualified residence interest.

Example (2). (*i*) The facts are the same as in example (1), except that in May 1986, T also obtains a home equity line of credit that, on August 16, 1986, has a principal balance of $40,000. In November 1986, T borrows an additional $10,000 on the home equity line, increasing the balance to $50,000. In December 1986, T repays $5,000 of principal on the home equity line. The average balance of the home equity line in 1987 is $45,000.

(*ii*) Because T has borrowed additional amounts on the line of credit after August 16, 1986, the grandfathered amount for that debt must be determined under the rules of paragraph (m)(2)(ii) of this section. Accordingly, the grandfathered amount for the line of credit is equal to the lesser of $45,000, the average balance of the debt in 1987, and $35,000, the principal balance on August 16, 1986, reduced by all principal payments between August 17, 1986, and December 31, 1986 ($40,000–$5,000). The sum of the grandfathered amounts with respect to the residence is $108,000 ($73,000+$35,000). Because the sum of the grandfathered amounts exceeds the adjusted purchase price ($50,000), T may treat the sum as the adjusted purchase price in determining the qualified residence interest for 1987.

(3) *Refinancing of grandfathered debt*—(i) *In general.* A debt incurred and secured on or before August 16, 1986, is refinanced if some or all of the outstanding balance of such a debt (the "original debt") is repaid out of the proceeds of a second debt secured by the same qualified residence (the "replacement debt"). In the case of a refinancing, the replacement debt is treated as a debt incurred and secured on or before August 16, 1986, and the grandfathered amount of such debt is the amount (but not less than zero) determined pursuant to paragraph (m)(3)(ii) of this section.

(ii) *Determination of grandfathered amount*—(A) *Exact refinancing.* If—

(*1*) The entire proceeds of a replacement debt are used to refinance one or more original debts, and

(*2*) The taxpayer has not borrowed any additional amounts after August 16, 1986, with respect to the original debt or debts,

the grandfathered amount of the replacement debt is the average balance of the replacement debt. For purposes of the preceding sentence, the fact that proceeds of a replacement debt are used to pay costs of obtaining the replacement debt (including points or other closing costs) shall be disregarded in determining whether the entire proceeds of the replacement debt have been used to refinance one or more original debts.

(B) *Refinancing other than exact refinancings*—(*1*) *Year of refinancing.* In the taxable year in which an original debt is refinanced, the grandfathered amount of the original and replacement debts is equal to the lesser of—

(*i*) The sum of the average balances of the original debt and the replacement debt, and

(*ii*) The principal balance of the original debt as of August 16, 1986, reduced by all principal payments on the original debt after August 16, 1986, and before the first day of the current taxable year.

(*2*) *In subsequent years.* In any taxable year after the taxable year in which an original debt is refinanced, the grandfathered amount of the replacement debt is equal to the least of—

(*i*) The average balance of the replacement debt for the taxable year,

(*ii*) The amount of the replacement debt used to repay the principal balance of the original debt, reduced by all principal payments on the replacement debt after the date of the refinancing and before the first day of the current taxable year, or

(*iii*) The principal balance of the original debt on August 16, 1986, reduced by all principal payments on the original debt after August 16, 1986, and before the date of the refinancing, and further reduced by all principal payments on the replacement debt after the date of the refinancing and before the first day of the current taxable year.

(C) *Example*—(*i*) *Facts.* On August 16, 1986, T has a single debt secured by a principal residence with a balance of $150,000. On July 1, 1988, T refinances the debt, which still has a principal balance of $150,000, with a new secured debt. The principal balance of the replacement debt throughout 1988 and 1989 is $150,000. The adjusted purchase price of the residence is $100,000 throughout 1987, 1988 and 1989. The average balance of the original debt was $150,000 in 1987 and $75,000 in 1988. The average balance of the replacement debt is $75,000 in 1988 and $150,000 in 1989.

(*ii*) *Grandfathered amount in 1987.* The original debt was incurred and secured on or before August 16, 1986 and T has not borrowed any additional amounts with respect to the debt. Therefore, its grandfathered amount in 1987 is its average balance ($150,000). This amount is treated as the adjusted purchase price for 1987 and all of the interest paid on the debt is qualified residence interest.

(*iii*) *Grandfathered amount in 1988.* Because the replacement debt was used to refinance a debt incurred and secured on or before August 16, 1986, the replacement debt is treated as a grandfathered debt. Because all of the proceeds of the replacement debt were used in the refinancing and because no amounts have been borrowed after August 16, 1986, on the original debt, the grandfathered amount for the original debt is its average balance ($75,000) and the grandfathered amount for the replacement debt is its average balance ($75,000). Since the sum of the grandfathered amounts ($150,000) exceeds the adjusted purchase price of the residence, the sum of the grandfathered amounts may be substituted for the adjusted purchase price for 1988 and all of the interest paid on the debt is qualified residence interest.

(*iv*) *Grandfathered amount in 1989.* The grandfathered amount for the placement debt is its average balance ($150,000). This amount is treated as the adjusted purchase price for 1989 and all of the interest paid on the mortgage is qualified residence interest.

(4) *Limitation on term of grandfathered debt*—(i) *In general.* An original debt or replacement debt shall not have any grandfathered amount in any taxable year that begins after the date, as determined on August 16, 1986, that the original debt was required to be repaid in full (the "maturity date"). If a replacement debt is used to refinance more than one original debt, the maturity date is determined by reference to the original debt that, as of August 16, 1986, had the latest maturity date.

(ii) *Special rule for nonamortizing debt.* If an original debt was actually incurred and secured on or before

August 16, 1986, and if as of such date the terms of such debt did not require the amortization of its principal over its original term, the maturity date of the replacement debt is the earlier of the maturity date of the replacement debt or the date 30 years after the date the original debt is first refinanced.

(iii) *Example.* C incurs a debt on May 10, 1986, the final payment of which is due May 1, 2006. C incurs a second debt on August 11, 1990, with a term of 20 years and uses the proceeds of the second debt to refinance the first debt. Because, under paragraph (m)(4)(i) of this section, a replacement debt will not have any grandfathered amount in any taxable year that begins after the maturity date of the original debt (May 1, 2006), the second debt has no grandfathered amount in any taxable year after 2006.

(n) *Qualified indebtedness (secured debt used for medical and educational purposes)*—(1) *In general*—(i) *Treatment of qualified indebtedness.* The amount of any qualified indebtedness resulting from a secured debt may be added to the adjusted purchase price under paragraph (e)(2)(i)(B) of this section to determine the applicable debt limit for that secured debt and any other debt subsequently secured by the qualified residence.

(ii) *Determination of amount of qualified indebtedness.* If, as of the end of the taxable year (or the last day in the taxable year that the debt is secured), at least 90 percent of the proceeds of a secured debt are used (within the meaning of paragraph (n)(2) of this section) to pay for qualified medical and educational expenses (within the meaning of paragraphs (n)(3) and (n)(4) of this section), the amount of qualified indebtedness resulting from that debt for the taxable year is equal to the average balance of such debt for the taxable year.

(iii) *Determination of amount of qualified indebtedness for mixed-use debt.* If, as of the end of the taxable year (or the last day in the taxable year that the debt is secured), more than ten percent of the proceeds of a secured debt are used to pay for expenses other than qualified medical and educational expenses, the amount of qualified indebtedness resulting from that debt for the taxable year shall equal the lesser of—

(A) The average balance of the debt, or

(B) The amount of the proceeds of the debt used to pay for qualified medical and educational expenses through the end of the taxable year, reduced by any principal payments on the debt before the first day of the current taxable year.

(iv) *Example.* (*i*) C incurs a $10,000 debt on April 20, 1987, which is secured on that date by C's principal residence. C immediately uses (within the meaning of paragraph (n)(2) of this section) $4,000 of the proceeds of the debt to pay for a qualified medical expense. C makes no principal payments on the debt during 1987. During 1988 and 1989, C makes principal payments of $1,000 per year. The average balance of the debt during 1988 is $9,500 and the average balance during 1989 is $8,500.

(*ii*) Under paragraph (n)(1)(iii) of this section, C determines the amount of qualified indebtedness for 1988 as follows:

Average balance		$9,500
Amount of debt used to pay for qualified medical expenses	$4,000	
Less payments of principal before 1988	$0	
Net qualified expenses		$4,000

The amount of qualified indebtedness for 1988 is, therefore, $4,000 (lesser of $9,500 average balance or $4,000 net qualified expenses). This amount may be added to the adjusted purchase price of C's principal residence under paragraph (e)(2)(i)(B) of this section for purposes of computing the applicable debt limit for this debt and any other debt subsequently secured by the principal residence.

(*iii*) C determines the amount of qualified indebtedness for 1989 as follows:

Average balance		$8,500
Amount of debt used to pay for qualified medical expenses	$4,000	
Less payments of principal before 1988	$1,000	
Net qualified expenses		$3,000

The amount of qualified indebtedness for 1989 is, therefore, $3,000 (lesser of $8,500 average balance or $3,000 net qualified expenses).

(v) *Prevention of double counting in year of refinancing*—(A) *In general.* A debt used to pay for qualified medical or educational expenses is refinanced if some or all of the outstanding balance of the debt (the "original debt") is repaid out of the proceeds of a second debt (the "replacement debt"). If, in the year of a refinancing, the combined qualified indebtedness of the original debt and the replacement debt exceeds the combined qualified expenses of such debts, the amount of qualified indebtedness for each such debt shall be determined by multiplying the amount of qualified indebtedness for each such debt by a fraction, the numerator of which is the combined qualified expenses and the denominator of which is the combined qualified indebtedness.

(B) *Definitions.* For purposes of paragraph (n)(1)(v)(A) of this section—

(*1*) The term "combined qualified indebtedness" means the sum of the qualified indebtedness (determined without regard to paragraph (n)(1)(v) of this section) for the original debt and the replacement debt.

(*2*) The term "combined qualified expenses" means the amount of the proceeds of the original debt used to pay for qualified medical and educational expenses through the end of the current taxable year, reduced by any principal payments on the debt before the first day of the current taxable year, and increased by the amount, if any, of the proceeds of the replacement debt used to pay such expenses through the end of the current taxable year other than as part of the refinancing.

(C) *Example.* (*i*) On August 11, 1987, C incurs a $8,000 debt secured by a principal residence. C uses (within the meaning of paragraph (n)(2)(i) of this section) $5,000 of the proceeds of the debt to pay for qualified educational expenses. C makes no principal payments on the debt. On July 1, 1988, C incurs a new debt in the amount of $8,000 secured by C's principal residence and uses all of the proceeds of the new debt to repay the original debt. Under paragraph (n)(2)(ii) of this section $5,000 of the new debt is treated as being used to pay for qualified educational expenses. C makes no principal payments (other than the refinancing) during 1987 or 1988 on either debt and pays all accrued interest monthly. The average balance of each debt in 1988 is $4,000.

(*ii*) Under paragraph (n)(1)(iii) of this section, the amount of qualified indebtedness for 1988 with respect to the original debt is $4,000 (the lesser of its average balance ($4,000) and the amount of the debt used to pay for qualified medical and educational expenses ($5,000)). Similarly, the amount of qualified indebtedness for 1988 with respect to the replacement debt is also $4,000. Both debts, however, are subject in 1988 to the limitation in paragraph (n)(1)(v)(A) of this section. The combined qualified indebtedness, determined without regard to the limitation, is $8,000 ($4,000 of qualified indebtedness from each debt). The combined qualified expenses are $5,000 ($5,000 from the original debt and $0 from the replacement debt). The amount of qualified indebtedness from each debt must, therefore, be reduced by a fraction, the numerator of which is $5,000 (the combined qualified expenses) and the denominator of which is $8,000 (the combined qualified indebtedness). After application of the limitation, the amount of qualified indebtedness for the original debt is $2,500 ($4,000 x 5/8). Similarly, the amount of qualified indebtedness for the replacement debt is $2,500. Note that the total qualified indebtedness for both the original and the replacement debt is $5,000 ($2,500 + $2,500). Therefore, C is entitled to the same amount of qualified indebtedness as C would have been entitled to if C had not refinanced the debt.

(vi) *Special rule for principal payments in excess of qualified*

expenses. For purposes of paragraph (n)(1)(iii)(B), (n)(1)(v)(B)(*2*) and (n)(2)(ii) of this section, a principal payment is taken into account only to the extent that the payment, when added to all prior payments, does not exceed the amount used on or before the date of the payment to pay for qualified medical and educational expenses.

(2) *Debt used to pay for qualified medical or educational expenses*—(i) *In general.* For purposes of this section, the proceeds of a debt are used to pay for qualified medical or educational expenses to the extent that—

(A) The taxpayer pays qualified medical or educational expenses within 90 days before or after the date that amounts are actually borrowed with respect to the debt, the proceeds of the debt are not directly allocable to another expense under § 1.163–8T(c)(3) (allocation of debt; proceeds not disbursed to borrower) and the proceeds of any other debt are not allocable to the medical or educational expenses under § 1.163–8T(c)(3), or

(B) The proceeds of the debt are otherwise allocated to such expenditures under § 1.163–8T.

(ii) *Special rule for refinancings.* For purposes of this section, the proceeds of a debt are used to pay for qualified medical and educational expenses to the extent that the proceeds of the debt are allocated under § 1.163–8T to the repayment of another debt (the "original debt"), but only to the extent of the amount of the original debt used to pay for qualified medical and educational expenses, reduced by any principal payments on such debt up to the time of the refinancing.

(iii) *Other special rules.* The following special rules apply for purposes of this section.

(A) Proceeds of a debt are used to pay for qualified medical or educational expenses as of the later of the taxable year in which such proceeds are borrowed or the taxable year in which such expenses are paid.

(B) The amount of debt which may be treated as being used to pay for qualified medical or educational expenses may not exceed the amount of such expenses.

(C) Proceeds of a debt may not be treated as being used to pay for qualified medical or educational expenses to the extent that:

(*1*) The proceeds have been repaid as of the time the expense is paid;

(*2*) The proceeds are actually borrowed before August 17, 1986; or

(*3*) The medical or educational expenses are paid before August 17, 1986.

(iv) *Examples—Example (1).* A pays a $5,000 qualified educational expense from a checking account that A maintains at Bank 1 on November 9, 1987. On January 1, 1988, A incurs a $20,000 debt that is secured by A's residence and places the proceeds of the debt in a savings account that A also maintains at Bank 1. A pays another $5,000 qualified educations expense on March 15 from a checking account that A maintains at Bank 2. Under paragraph (n)(2) of this section, the debt proceeds are used to pay for both educational expenses, regardless of other deposits to, or expenditures from, the accounts, because both expenditures are made within 90 days before or after the debt was incurred.

Example (2). B pays a $5,000 qualified educational expense from a checking account on November 1, 1987. On November 30, 1987, B incurs a debt secured by B's residence, and the lender disburses the debt proceeds directly to a person who sells B a new car. Although the educational expense is paid within 90 days of the date the debt is incurred, the proceeds of the debt are not used to pay for the educational expense because the proceeds are directly allocable to the purchase of the new car under § 1.163–8T(c)(3).

Example (3). On November 1, 1987, C borrows $5,000 from C's college. The proceeds of this debt are not disbursed to C, but rather are used to pay tuition fees for C's attendance at the college. On November 30, 1987, C incurs a second debt and secures the debt by C's residence. Although the $5,000 educational expense is paid within 90 days before the second debt is incurred, the proceeds of the second debt are not used to pay for the educational expense, because the proceeds of the first debt are directly allocable to the educational expense under § 1.163–8T(c)(3).

Example (4). On January 1, 1988, D incurs a $20,000 debt secured by a qualified residence. D places the proceeds of the debt in a separate account (*i.e.*, the proceeds of the debt are the only deposit in the account). D makes payments of $5,000 each for qualified educational expenses on September 1, 1988, September 1, 1989, September 1, 1990, and September 1, 1991. Because the debt proceeds are allocated to educational expenses as of the date the expenses are paid, under the rules of § 1.163–8T(c)(4), the following amounts of the debt proceeds are used to pay for qualified educational expenses as of the end of each year:

1988: $5,000
1989: $10,000
1990: $15,000
1991: $20,000

Example (5). During 1987 E incurs a $10,000 debt secured by a principal residence. E uses (within the meaning of paragraph (n)(2)(i) of this section) all of the proceeds of the debt to pay for qualified educational expenses. On August 20, 1988, at which time the balance of the debt is $9,500, E incurs a new debt in the amount of $9,500 secured by E's principal residence and uses all of the proceeds of the new debt to repay the original debt. Under paragraph (n)(2)(ii) of this section, all of the proceeds of the new debt are used to pay for qualified educational expenses.

(3) *Qualified medical expenses.* Qualified medical expenses are amounts that are paid for medical care (within the meaning of section 213(d)(1) (A) and (B)) for the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer (within the meaning of section 152), and that are not compensated for by insurance or otherwise.

(4) *Qualified educational expenses.* Qualified educational expenses are amounts that are paid for tuition, fees, books, supplies and equipment required for enrollment, attendance or courses of instruction at an educational organization described in section 170(b)(1)(A)(ii) and for any reasonable living expenses while away from home while in attendance at such an institution, for the taxpayer, the taxpayer's spouse or a dependent of the taxpayer (within the meaning of section 152) and that are not reimbursed by scholarship or otherwise.

(o) *Secured debt*—(1) *In general.* For purposes of this section, the term "secured debt" means a debt that is on the security of any instrument (such as a mortgage, deed of trust, or land contract)—

(i) That makes the interest of the debtor in the qualified residence specific security for the payment of the debt,

(ii) Under which, in the event of default, the residence could be subjected to the satisfaction of the debt with the same priority as a mortgage or deed of trust in the jurisdiction in which the property is situated, and

(iii) That is recorded, where permitted, or is otherwise perfected in accordance with applicable State law.

A debt will not be considered to be secured by a qualified residence if it is secured solely by virtue of a lien upon the general assets of the taxpayer or by a security interest, such as a mechanic's lien or judgment lien, that attaches to the property without the consent of the debtor.

(2) *Special rule for debt in certain States.* Debt will not fail to be treated as secured solely because, under an applicable State or local homestead law or other debtor protection law in effect on August 16, 1986, the security interest is ineffective or the enforceability of the security interest is restricted.

(3) *Times at which debt is treated as secured.* For purposes of this section, a debt is treated as secured as of the date on which each of the requirements of paragraph (o)(1) of this section are satisfied, regardless of when amounts are actually borrowed with respect to the debt. For purposes of this paragraph (o)(3), if the instrument is recorded within a commercially reasonable time after the security interest is granted, the

instrument will be treated as recorded on the date that the security interest was granted.

(4) *Partially secured debt*—(i) *In general.* If the security interest is limited to a prescribed maximum amount or portion of the residence, and the average balance of the debt exceeds such amount or the value of such portion, such excess shall not be treated as secured debt for purposes of this section.

(ii) *Example.* T borrows $80,000 on January 1, 1991. T secures the debt with a principal residence. The security in the residence for the debt, however, is limited to $20,000. T pays $8,000 in interest on the debt in 1991 and the average balance of the debt in that year is $80,000. Because the average balance of the debt exceeds the maximum amount of the security interest, such excess is not treated as secured debt. Therefore, for purposes of applying the limitation on qualified residence interest, the average balance of the secured debt is $20,000 (the maximum amount of the security interest) and the interest paid or accrued on the secured debt is $2,000 (the total interest paid on the debt multiplied by the ratio of the average balance of the secured debt ($20,000) and the average balance of the total debt ($80,000)).

(5) *Election to treat debt as not secured by a qualified residence*—(i) *In general.* For purposes of this section, a taxpayer may elect to treat any debt that is secured by a qualified residence as not secured by the qualified residence. An election made under this paragraph shall be effective for the taxable year for which the election is made and for all subsequent taxable years unless revoked with the consent of the Commissioner.

(ii) *Example.* T owns a principal residence with a fair market value of $75,000 and an adjusted purchase price of $40,000. In 1988, debt A, the proceeds of which were used to purchase the residence, has an average balance of $15,000. The proceeds of debt B, which is secured by a second mortgage on the property, are allocable to T's trade or business under § 1.163–8T and has an average balance of $25,000. In 1988, T incurs debt C, which is also secured by T's principal residence and which has an average balance in 1988 of $5,000. In the absence of an election to treat debt B as unsecured, the applicable debt limit for debt C in 1988 under paragraph (e) of this section would be zero dollars ($40,000 − $15,000 − $25,000) and none of the interest paid on debt C would be qualified residence interest. If, however, T makes or has previously made an election pursuant to paragraph (o)(5)(i) of this section to treat debt B as not secured by the residence, the applicable debt limit for debt C would be $25,000 ($40,000 − $15,000), and all of the interest paid on debt C during the taxable year would be qualified residence interest. Since the proceeds of debt B are allocable to T's trade or business under § 1.163–8T, interest on debt B may be deductible under other sections of the Internal Revenue Code.

(iii) *Allocation of debt secured by two qualified residences.* [Reserved.]

(p) *Definition of qualified residence*—(1) *In general.* The term "qualified residence" means the taxpayer's principal residence (as defined in paragraph (p)(2) of this section), or the taxpayer's second residence (as defined in paragraph (p)(3) of this section).

(2) *Principal residence.* The term "principal residence" means the taxpayer's principal residence within the meaning of section 1034. For purposes of this section, a taxpayer cannot have more than one principal residence at any one time.

(3) *Second residence*—(i) *In general.* The term "second residence" means—

(A) A residence within the meaning of paragraph (p)(3)(ii) of this section,

(B) That the taxpayer uses as a residence within the meaning of paragraph (p)(3)(iii) of this section, and

(C) That the taxpayer elects to treat as a second residence pursuant to paragraph (p)(3)(iv) of this section.

A taxpayer cannot have more than one second residence at any time.

(ii) *Definition of residence.* Whether property is a residence shall be determined based on all the facts and circumstances, including the good faith of the taxpayer. A residence generally includes a house, condominium, mobile home, boat, or house trailer, that contains sleeping space and toilet and cooking facilities. A residence does not include personal property, such as furniture or a television, that, in accordance with the applicable local law, is not a fixture.

(iii) *Use as a residence.* If a residence is rented at any time during the taxable year, it is considered to be used as a residence only if the taxpayer uses it during the taxable year as a residence within the meaning of section 280A(d). If a residence is not rented at any time during the taxable year, it shall be considered to be used as a residence. For purposes of the preceding sentence, a residence will be deemed to be rented during any period that the taxpayer holds the residence out for rental or resale or repairs or renovates the residence with the intention of holding it out for rental or resale.

(iv) *Election of second residence.* A taxpayer may elect a different residence (other than the taxpayer's principal residence) to be the taxpayer's second residence for each taxable year. A taxpayer may not elect different residences as second residences at different times of the same taxable year except as provided below—

(A) If the taxpayer acquires a new residence during the taxable year, the taxpayer may elect the new residence as a taxpayer's second residence as of the date acquired;

(B) If property that was the taxpayer's principal residence during the taxable year ceases to qualify as the taxpayer's principal residence, the taxpayer may elect that property as the taxpayer's second residence as of the date that the property ceases to be the taxpayer's principal residence; or

(C) If property that was the taxpayer's second residence is sold during the taxable year or becomes the taxpayer's principal residence, the taxpayer may elect a new second residence as of such day.

(4) *Allocations between residence and other property*—(i) *In general.* For purposes of this section, the adjusted purchase price and fair market value of property must be allocated between the portion of the property that is a qualified residence and the portion that is not a qualified residence. Neither the average balance of the secured debt nor the interest paid or accrued on secured debt is so allocated. Property that is not used for residential purposes does not qualify as a residence. For example, if a portion of the property is used as an office in the taxpayer's trade or business, that portion of the property does not qualify as a residence.

(ii) *Special rule for rental of residence.* If a taxpayer rents a portion of his or her principal or second residence to another person (a "tenant"), such portion may be treated as used by the taxpayer for residential purposes if, but only if—

(A) Such rented portion is used by the tenant primarily for residential purposes,

(B) The rented portion is not a self-contained residential unit containing separate sleeping space and toilet and cooking facilities, and

(C) The total number of tenants renting (directly or by sublease) the same or different portions of the residence at any time during the taxable year does not exceed two. For this purpose, if two persons (and the dependents, as defined by section 152, of either of them) share the same sleeping quarters, they shall be treated as a single tenant.

(iii) *Examples—Example (1).* D, a dentist, uses a room in D's principal residence as an office which qualifies under section 280A(c)(1)(B) as a portion of the dwelling unit used exclusively on a regular basis as a place of business for meeting with patients in the normal course of D's trade or business. D's adjusted purchase price of the property is

$65,000; $10,000 of which is allocable under paragraph (o)(4)(i) of this section to the room used as an office. For purposes of this section, D's residence does not include the room used as an office. The adjusted purchase price of the residence is, accordingly, $55,000. Similarly, the fair market value of D's residence must be allocated between the office and the remainder of the property.

Example (2). J rents out the basement of property that is otherwise used as J's principal residence. The basement is a self-contained residential unit, with sleeping space and toilet and cooking facilities. The adjusted purchase price of the property is $100,000; $15,000 of which is allocable under paragraph (o)(4)(i) of this section to the basement. For purposes of this section, J's residence does not include the basement and the adjusted purchase price of the residence is $85,000. Similarly, the fair market value of the residence must be allocated between the basement unit and the remainder of the property.

(5) *Residence under construction*—(i) *In general.* A taxpayer may treat a residence under construction as a qualified residence for a period of up to 24 months, but only if the residence becomes a qualified residence, without regard to this paragraph (p)(5)(i), as of the time that the residence is ready for occupancy.

(ii) *Example.* X owns a residential lot suitable for the construction of a vacation home. On April 20, 1987, X obtains a mortgage secured by the lot and any property to be constructed on the lot. On August 9, 1987, X begins construction of a residence on the lot. The residence is ready for occupancy on November 9, 1989. The residence is used as a residence within the meaning of paragraph (p)(3)(iii) of this section during 1989 and X elects to treat the residence as his second residence for the period November 9, 1989, through December 31, 1989. Since the residence under construction is a qualified residence as of the first day that the residence is ready for occupancy (November 9, 1987), X may treat the residence as his second residence under paragraph (p)(5)(i) of this section for up to 24 months of the period during which the residence is under construction, commencing on or after the date that construction is begun (August 9, 1987). If X treats the residence under construction as X's second residence beginning on August 9, 1987, the residence under construction would cease to qualify as a qualified residence under paragraph (p)(5)(i) on August 8, 1989. The residence's status as a qualified residence for future periods would be determined without regard to paragraph (p)(5)(i) of this section.

(6) *Special rule for time-sharing arrangements.* Property that is otherwise a qualified residence will not fail to qualify as such solely because the taxpayer's interest in or right to use the property is restricted by an arrangement whereby two or more persons with interests in the property agree to exercise control over the property for different periods during the taxable year. For purposes of determining the use of a residence under paragraph (p)(3)(iii) of this section, a taxpayer will not be considered to have used or rented a residence during any period that the taxpayer does not have the right to use the property or to receive any benefits from the rental of the property.

(q) *Special rules for tenant-stockholders in cooperative housing corporations*—(1) *In general.* For purposes of this section, a residence includes stock in a cooperative housing corporation owned by a tenant-stockholder if the house or apartment which the tenant-stockholder is entitled to occupy by virtue of owning such stock is a residence within the meaning of paragraph (p)(3)(ii) of this section.

(2) *Special rule where stock may not be used to secure debt.* For purposes of this section, if stock described in paragraph (q)(1) of this section may not be used to secure debt because of restrictions under local or State law or because of restrictions in the cooperative agreement (other than restrictions the principal purpose of which is to permit the tenant-stockholder to treat unsecured debt as secured debt under this paragraph (q)(2)), debt may be treated as secured by such stock to the extent that the proceeds of the debt are allocated to the purchase of the stock under the rules of § 1.163-8T. For purposes of this paragraph (q)(2), proceeds of debt incurred prior to January 1, 1987, may be treated as allocated to the purchase of such stock to the extent that the tenant-stockholder has properly and consistently deducted interest expense on such debt as home mortgage interest attributable to such stock on Schedule A of Form 1040 in determining his taxable income for taxable years beginning before January 1, 1987. For purposes of this paragraph (q)(2), amended returns file after December 22, 1987, are disregarded.

(3) *Treatment of interest expense of the cooperative described in section 216(a)(2).* For purposes of section 163(h) and § 1.163-9T (disallowance of deduction for personal interest) and section 163(d) (limitation on investment interest), any amount allowable as a deduction to a tenant-stockholder under section 216(a)(2) shall be treated as interest paid or accrued by the tenant-stockholder. If a tenant-stockholder's stock in a cooperative housing corporation is a qualified residence of the tenant-shareholder, any amount allowable as a deduction to the tenant-stockholder under section 216(a)(2) is qualified residence interest.

(4) *Special rule to prevent tax avoidance.* If the amount treated as qualified residence interest under this section exceeds the amount which would be so treated if the tenant-stockholder were treated as directly owning his proportionate share of the assets and liabilities of the cooperative and one of the principal purposes of the cooperative arrangement is to permit the tenant-stockholder to increase the amount of qualified residence interest, the district director may determine that such excess is not qualified residence interest.

(5) *Other definitions.* For purpose of this section, the terms "tenant-stockholder," "cooperative housing corporation" and "proportionate share" shall have the meaning given by section 216 and the regulations thereunder.

(r) *Effective date.* The provisions of this section are effective for taxable years beginning after December 31, 1986.

PART 602—[AMENDED]

Par. 3. The authority for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.10 [Amended]

Par. 4. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 1.163-10T . . . 1545-1009."

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impractical to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: December 15, 1987.

O. Donaldson Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 87-29272 Filed 12-21-87; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 19

Right to Financial Privacy Act of 1978; Final Implementation Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of final rulemaking.

SUMMARY: These final regulations authorize Department of Labor units to

request financial records from a financial institution pursuant to the formal written request procedure established by the Right to Financial Privacy Act of 1978 and would set forth the conditions under which such requests may be made. Section 1108(2) of that Act requires that the formal written request be authorized by regulations promulgated by the head of the agency or department. These final regulations will enable Department of Labor units to utilize the formal written request procedure to obtain financial records.

EFFECTIVE DATE: January 21, 1988.

FOR FURTHER INFORMATION CONTACT: Sofia P. Petters, Counsel for Administrative Legal Services, Office of the Solicitor, U.S. Department of Labor, Room N-2428, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 523-8188.

SUPPLEMENTARY INFORMATION: The Right to Financial Privacy Act of 1978, 92 Stat. 3697, 12 U.S.C. 3401 *et seq.*, limits government access to financial records of customers of financial institutions. In order for government agencies to obtain such records, the Act requires that there be either customer authorizations, authorized search warrants, judicial or administrative subpoenas, or formal written requests by a governmental authority. Formal written requests may only be made pursuant to a regulatory authorization promulgated by the head of the agency or department, 12 U.S.C. 3408(2).

In order to assist those departmental agencies or units that have no statutory administrative subpoena power, this final regulatory authorization is needed to comply with 12 U.S.C. 3408(2).

This rule was originally published for public comment as a proposed rule in the **Federal Register** on April 2, 1985 (50 FR 13049). Comments were to be submitted until May 2, 1985. No comments were received. Inasmuch as no comments have been received, the proposed rule is adopted as the final rule. No changes have been made except for a punctuation change in § 19.1(a) wherein a parenthesis is being closed.

Classification

This rule is procedural in character in that it implements the formal written request procedure established by the Right to Financial Privacy Act of 1978. Therefore, the rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

The Department believes that the rule will have no "significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 91 Stat. 1164 (5 U.S.C. 605(b)). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because the rule is procedural in character in that it implements the formal written request procedure established by the Right to Financial Privacy Act of 1978 and thus no significant economic impact is expected with respect to small entities, nor with respect to other entities as well. Accordingly, no regulatory flexibility analysis is required.

Paperwork Reduction Act

This rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it does not contain a collection of information requirement.

List of Subjects in 29 CFR Part 19

Privacy.

Accordingly, a new Part 19 is added to Subtitle A of Title 29 of the Code of Federal Regulations to read as follows:

PART 19—RIGHT TO FINANCIAL PRIVACY ACT

Sec.

Authority: Sec. 1108, Right to Financial Privacy Act of 1978, 92 Stat. 3697 *et seq.*, 12 U.S.C. 3401 *et seq.*, (5 U.S.C. 301); and Reorganization Plan No. 6 of 1950.

§ 19.1 Definitions.

For purposes of this regulation, the term:

(a) "Financial institution" means any office of a bank, savings bank, card issuer as defined in section 103 of the Consumer Credit Protection Act (15 U.S.C. 1602(n)), industrial loan company, trust company, savings and loan, building and loan, or homestead association (including cooperative banks), credit union, consumer financial institution, located in any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

(b) "Financial record" means an original of, a copy of, or information known to have been derived from, any record held by a financial institution pertaining to a customer's relationship with the financial institution.

(c) "Person" means an individual or a partnership of five or fewer individuals.

(d) "Customer" means any persons or authorized representative of that person who utilized or is utilizing any service of a financial institution, or for whom a financial institution is acting or has acted as a fiduciary, in relation to an account maintained in the person's name.

(e) "Law enforcement inquiry" means a lawful investigation or official proceeding inquiring into a violation of or failure to comply with any criminal or civil statute or any regulation, rule, or order issued pursuant thereto.

(f) "Departmental unit" means those offices, divisions bureaus, or other components of the Department of Labor authorized to conduct law enforcement inquiries.

(g) "Act" means the Right to Financial Privacy Act of 1978.

§ 19.2 Purpose.

The purpose of these regulations is to authorize Departmental units to request financial records from a financial institution pursuant to the formal written request procedure authorized by section 1108 of the Act, and to set forth the conditions under which such requests may be made.

§ 19.3 Authorization.

Departmental units are hereby authorized to request financial records of any customer from a financial institution pursuant to a formal written request under the Act only if:

(a) No administrative summons or subpoena authority reasonably appears to be available to the Departmental unit to obtain financial records for the purpose for which the records are sought;

(b) There is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry and will further that inquiry;

(c) The request is issued by the Assistant Secretary or Deputy Under Secretary heading the Departmental unit requesting the records, or by a senior agency official designated by the head of the Departmental unit. Officials so designated shall not delegate this authority to others;

(d) The request adheres to the requirements set forth in § 19.4; and

(e) The notice requirements set forth in section 1108(4) of the Act, or the requirements pertaining to delay of

notice in section 1109 of the Act are satisfied, except in situations where no notice is required (e.g., section 1113(g)).

§ 19.4 Contents of request.

The formal written request shall be in the form of a letter or memorandum to an appropriate official of the financial institution from which financial records are requested. The request shall be signed by an issuing official of the requesting Departmental unit, as specified in § 19.3(c). It shall set forth that official's name, title, business address and business phone number. The request shall also contain the following:

(a) The identity of the customer or customers to whom the records pertain;

(b) A reasonable description of the records sought;

(c) Any other information that the issuing official deems appropriate, e.g., the date on which the requesting Departmental unit expects to present a certificate of compliance with the applicable provisions of the Act, the name and title of the individual to whom disclosure is to be made, etc.

(d) In cases where customer notice is delayed by a court order, a copy of the court order shall be attached to the formal written request.

§ 19.5 Certification.

Prior to obtaining the requested records pursuant to a formal written request, a senior official designated by the head of the requesting Departmental unit shall certify in writing to the financial institution that the Departmental unit has complied with the applicable provisions of the Act.

Signed at Washington, DC, this 14th day of December, 1987.

Dennis E. Whitfield,

Deputy Secretary of Labor.

[FR Doc. 87-29287 Filed 12-21-87; 8:45 am]

BILLING CODE 4510-23-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Removal of Condition (c) From the Illinois Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule.

SUMMARY: OSMRE is announcing the removal of the condition listed at 30 CFR 913.11(c) ["Condition (c)"] placed on the Secretary's approval of the Illinois permanent regulatory program (hereinafter referred to as the Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Condition (c) required the State to adopt a policy statement or otherwise amend its program to the effect that the best technology currently available (BTCA) for sediment control required the use of sedimentation ponds. Subsequently, the United States District Court for the District of Columbia remanded the Federal rules establishing sedimentation ponds or other siltation structures with point source discharges as BTCA, thus rendering the original Illinois rules no less effective than the current Federal regulations governing sediment control measures.

EFFECTIVE DATE: December 22, 1987.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Director, Springfield Field Office, Office of Surface Mining Reclamation and Enforcement, 600 East Monroe Street, Room 20, Springfield, Illinois 62701; Telephone: (217) 492-4495.

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Program

On June 1, 1982, the Secretary of Interior conditionally approved the Illinois permanent regulatory program. Information pertinent to the general background, revisions, modifications, and amendments to the Illinois program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Illinois program can be found in the June 1, 1982 **Federal Register** (47 FR 23883 *et seq.*). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 913.11, 913.15 and 913.16.

II. Secretary's Findings on Condition (c)

As discussed in Finding 14.7 of the program approval notice (47 FR 23861-23862, June 1, 1982), Illinois uses the term "siltation structures" when establishing the performance standards for sediment control at 62 IAC 1816.46 and 1817.46. As originally promulgated, the corresponding Federal rules at 30 CFR 816.46 and 817.46 used the more limiting term "sedimentation ponds" because, as explained in the preamble to those rules (44 FR 15159, March 13, 1979), OSMRE had determined that BTCA for sediment control required the use of sedimentation ponds. Since the Illinois definition of "siltation structures" at 62 IAC 1701.5 ("a device, or devices, used to remove, collect or otherwise control runoff so that resulting outflow will meet applicable effluent standards") includes structures other than sedimentation ponds, the Secretary, with the State's concurrence, imposed condition (c) on his approval of the Illinois program.

As codified at 30 CFR 913.11(c), condition (c) required that Illinois adopt a policy statement or otherwise amend its program to indicate that sedimentation ponds are BTCA for sediment control. It also specified that if the State desired to approve any other technology, OSMRE would first have to review and approve it as an experimental practice or a program amendment.

On September 26, 1983, the Secretary revised 30 CFR 816.46 and 817.46, replacing the requirement for sedimentation ponds with one for siltation structures in recognition of the fact that treatment facilities other than sedimentation ponds may also qualify as BTCA for sediment control (48 FR 44034). However, the Federal definitions of "siltation structure" and its subset of "other treatment facilities" continued to be more restrictive than the Illinois definition of "siltation structure" in that the Federal rules required that any such structure have a point-source discharge.

On July 15, 1985, the United States District Court for the District of Columbia remanded 30 CFR 816.46(b)(2) and 817.46(b)(2) to the extent that they require the use of siltation structures, as defined in 30 CFR 816.46(a) and 817.46(a), as BTCA for sediment control (*In re: Permanent Surface Mining Regulation Litigation II*, Civil Action No. 79-1144). The court found that the Secretary had (1) failed to articulate a satisfactory explanation for requiring siltation structures in every instance, and (2) without reasoned analysis, dismissed evidence in the administrative record pointing to potential negative impacts of siltation structures. In particular, the court questioned the Secretary's assertion that structures with point-source discharges must be required as BTCA because there is no technical basis on which to judge the effectiveness of alternative sediment control measures.

On November 20, 1986, the Secretary suspended 30 CFR 816.46(b)(2) and 817.46(b)(2), which required that all surface drainage from disturbed areas be passed through a siltation structure prior to leaving the permit area, to comply with the court's decision (51 FR 41952 *et seq.*). This means that the regulatory authority must determine BTCA for sediment control on a case-by-case basis in a manner consistent with the Federal definition of BTCA at 30 CFR 701.5. As in the Illinois program, siltation structures with point-source

discharge will no longer be required as BTCA for sediment control in every instance.

The Federal rules at 30 CFR 816.45(a), 816.46(b)(1), 817.45(a) and 817.46(b)(1) continue to require that, in accordance with section 515(b)(10)(B)(i) of SMCRA, sediment control measures be designed, constructed and maintained to prevent additional contributions of suspended solids to streamflow or runoff outside the permit area to the extent possible using the best technology currently available.

The corresponding Illinois regulations at 62 IAC 1816.45(a), 1816.42(a)(1), 1817.45(a) and 1817.42(a)(1), respectively, contain provisions which are identical or substantively similar to these Federal rules. In addition, the Illinois definition of "best technology currently available" at 62 IAC 1701.5 is virtually identical to the corresponding Federal definition at 30 CFR 701.5.

Therefore, the Secretary finds that the suspension of the Federal rules requiring the use of structures with point-source discharges as BTCA for sediment control renders the Illinois program no less effective than the Federal regulations concerning the use of BTCA for sediment control. Hence, condition (c) can be removed.

III. Public Comment

On July 29, 1987, OSMRE requested public comment on its proposal to remove condition (c) (52 FR 28309–28310). No comments were received during the comment period, which closed on August 28, 1987.

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), comments were also solicited from various Federal agencies. No substantive comments were received.

IV. Secretary's Decision

Based on the above findings, the Secretary is removing the condition of approval of the Illinois program codified at 30 CFR 913.11(c). He is amending 30 CFR Part 913 to implement this decision. This final rule is being made effective immediately since consistency of State and Federal standards is required by SMCRA.

V. Procedural Requirements

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared for this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that the removal of this condition will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Date: December 14, 1987.

James E. Cason,

Deputy Assistant Secretary—Land and Minerals Management.

PART 913—ILLINOIS

30 CFR Part 913 is amended as follows:

1. The authority citation for Part 913 continues to read as follows:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

§ 913.11 [Amended]

2. In § 913.11, paragraph (c) is removed.

[FR Doc. 87-29270 Filed 12-21-87; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 316, 342, and 351

[Department of the Treasury Circulars No. 653, Tenth Revision; Public Debt Series No. 3-67, Second Revision; and No. 1-80, Second Revision]

U.S. Savings Bonds and Notes; Tables Reflecting Investment Yields and Maturity Periods

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice providing update of tables showing the redemption values and investment yields of United States Savings Bonds/Notes

SUMMARY: This notice updates the tables set forth in the offering circulars for Series E/EE savings bonds and savings notes. The tables reflect the redemption values and investment yields for accrual dates occurring November 1, 1987 through April 1, 1988, for Series E/EE savings bonds and savings notes.

DATE: Effective Date: December 22, 1987.

FOR FURTHER INFORMATION CONTACT: Jacqueline L. Jackson, Attorney Adviser, Office of the Chief Counsel, Bureau of the Public Debt, Washington, DC 20239–0001, (202) 376–4320.

SUPPLEMENTARY INFORMATION: This notice updates the tables reflecting the investment yields of Series E/EE savings bonds and savings notes. Offering circulars No. 653 (Series E), No. 1–80 (Series EE) and Public Debt Series No. 3–67 (Saving Notes) are hereby supplemented by the addition of tables showing the redemption values and investment yields for accrual dates occurring November 1, 1987 through April 1, 1988. It shouid be noted that, for the first time, the tables reflect the market-based variable yields described in the offering circulars at 31 CFR 316.8(b)(2)(C)(iii) for Series E savings bond, 31 CFR 351.2(f)(2) for Series EE savings bonds, and 31 CFR 342.2a(b)(2) for savings notes. It should also be noted that the values shown apply only where the securities are actually paid. They do not form the basis for future accruals.

Procedural Requirements

This notice is not considered a "major rule" for purposes of Executive Order 12291. A regulatory impact analysis, therefore, is not required.

The notice and public procedures of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

List of Subjects in 31 CFR Parts 316, 342, and 351

Bonds, Government securities.

Dated: November 18, 1987.

Gerald Murphy,

Fiscal Assistant Secretary.

Accordingly, pursuant to the authority of Department of the Treasury Circular No. 653, Tenth Revision (31 CFR, Part 316), Public Debt Series No. 3–67, Second Revision (31 CFR Part 342), and No. 1–80, Second Revision, (31 CFR Part 351); the following updated tables are provided:

BILLING CODE 4810-40-M

U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1987 THRU APR 1, 1988

ISSUE PRICE / DENOMINATION	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)							ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
		$7.50 / 10.00	$18.75 / 25.00	$37.50 / 50.00	$75.00 / 100.00	$150.00 / 200.00	$375.00 / 500.00	$750.00 / 1000.00			
11/47 THRU 11/47	11/1/87	51.74	129.34	258.68	517.36	1034.72	2586.80	5173.60	8.75%	8.75%	8.50%
12/47 THRU 4/48	12/1/87	52.56	131.41	262.82	525.64	1051.28	2628.20	5256.40	8.75%	8.75%	8.50%
5/48 THRU 5/48	11/1/87	50.90	127.26	254.52	509.04	1018.08	2545.20	5090.40	8.75%	8.75%	8.50%
6/48 THRU 10/48	12/1/87	51.74	129.34	258.68	517.36	1034.72	2586.80	5173.60	8.75%	8.75%	8.50%
11/48 THRU 11/48	11/1/87	50.10	125.26	250.52	501.04	1002.08	2505.20	5010.40	8.75%	8.75%	8.50%
12/48 THRU 4/49	12/1/87	50.92	127.29	254.58	509.16	1018.32	2545.80	5091.60	8.75%	8.75%	8.50%
5/49 THRU 5/49	11/1/87	49.31	123.28	246.56	493.12	986.24	2465.60	4931.20	8.75%	8.75%	8.50%
6/49 THRU 10/49	12/1/87	51.39	128.48	256.96	513.92	1027.84	2569.60	5139.20	8.75%	8.75%	8.50%
11/49 THRU 11/49	11/1/87	49.77	124.43	248.86	497.72	995.44	2488.60	4977.20	8.75%	8.75%	8.50%
12/49 THRU 4/50	12/1/87	50.40	126.01	252.02	504.04	1008.08	2520.20	5040.40	8.75%	8.75%	8.50%
5/50 THRU 5/50	11/1/87	48.82	122.04	244.08	488.16	976.32	2440.80	4881.60	8.75%	8.75%	8.50%

(1) ACCRUAL DATE SHOWN IS FOR BONDS OF THE FIRST ISSUE DATE LISTED -- ADD ONE MONTH FOR EACH SUCCESSIVE MONTH OF ISSUE.
(2) ACTUAL INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
(3) MARKET BASED VARIABLE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
(4) GUARANTEED MINIMUM YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
NOTE: ADDITIONAL INVESTMENT INFORMATION IS OBTAINABLE FROM FEDERAL RESERVE BANKS AND THE BUREAU OF THE PUBLIC DEBT, SAVINGS BOND OPERATIONS OFFICE, 200 THIRD ST., PARKERSBURG, WV 26102-1328.

U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1987 THRU APR 1, 1988

ISSUE PRICE / DENOMINATION	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)						ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
		$18.75 / 25.00	$37.50 / 50.00	$75.00 / 100.00	$150.00 / 200.00	$375.00 / 500.00	$750.00 / 1000.00			
6/50 THRU 10/50	12/1/87	123.71	247.42	494.84	989.68	2474.20	4948.40	8.75%	8.75%	8.50%
11/50 THRU 11/50	11/1/87	119.83	239.66	479.32	958.64	2396.60	4793.20	8.75%	8.75%	8.50%
12/50 THRU 12/50	12/1/87	121.59	243.18	486.36	972.72	2431.80	4863.60	8.75%	8.75%	8.50%
1/51 THRU 4/51	1/1/88	121.59	243.18	486.36	972.72	2431.80	4863.60	8.75%	8.75%	8.50%
5/51 THRU 5/51	11/1/87	117.79	235.58	471.16	942.32	2355.80	4711.60	8.75%	8.75%	8.50%
6/51 THRU 6/51	12/1/87	119.54	239.08	478.16	956.32	2390.80	4781.60	8.75%	8.75%	8.50%
7/51 THRU 10/51	1/1/88	119.54	239.08	478.16	956.32	2390.80	4781.60	8.75%	8.75%	8.50%
11/51 THRU 11/51	11/1/87	115.76	231.52	463.04	926.08	2315.20	4630.40	8.75%	8.75%	8.50%
12/51 THRU 12/51	12/1/87	117.43	234.86	469.72	939.44	2348.60	4697.20	8.75%	8.75%	8.50%
1/52 THRU 4/52	1/1/88	117.43	234.86	469.72	939.44	2348.60	4697.20	8.75%	8.75%	8.50%

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(2) ACTUAL INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
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U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1987 THRU APR 1, 1988

ISSUE PRICE	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500.
DENOMINATION	25.00	50.00	100.00	200.00	500.00	1000.00	10000.

ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)							ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
5/52 THRU 5/52	1/1/88	116.99	233.98	467.96	935.92	2339.80	4679.60	46796.	8.75%	8.75%	8.50%
6/52 THRU 8/52	2/1/88	117.25	234.50	469.00	938.00	2345.00	4690.00	46900.	8.75%	8.75%	8.50%
9/52 THRU 9/52	11/1/87	113.57	227.14	454.28	908.56	2271.40	4542.80	45428.	8.75%	8.75%	8.50%
10/52 THRU 10/52	12/1/87	114.98	229.96	459.92	919.84	2299.60	4599.20	45992.	8.75%	8.75%	8.50%
11/52 THRU 11/52	1/1/88	114.98	229.96	459.92	919.84	2299.60	4599.20	45992.	8.75%	8.75%	8.50%
12/52 THRU 2/53	2/1/88	115.29	230.58	461.16	922.32	2305.80	4611.60	46116.	8.75%	8.75%	8.50%
3/53 THRU 3/53	11/1/87	111.65	223.30	446.60	893.20	2233.00	4466.00	44660.	8.75%	8.75%	7.50%
4/53 THRU 4/53	12/1/87	113.03	226.06	452.12	904.24	2260.60	4521.20	45212.	8.75%	8.75%	7.50%
5/53 THRU 5/53	1/1/88	113.03	226.06	452.12	904.24	2260.60	4521.20	45212.	8.75%	8.75%	7.50%
6/53 THRU 8/53	2/1/88	113.31	226.62	453.24	906.48	2266.20	4532.40	45324.	8.75%	8.75%	7.50%
9/53 THRU 9/53	11/1/87	109.73	219.46	438.92	877.84	2194.60	4389.20	43892.	8.75%	8.75%	7.60%
10/53 THRU 10/53	12/1/87	111.13	222.26	444.52	889.04	2222.60	4445.20	44452.	8.75%	8.75%	7.60%
11/53 THRU 11/53	1/1/88	111.13	222.26	444.52	889.04	2222.60	4445.20	44452.	8.75%	8.75%	7.60%
12/53 THRU 2/54	2/1/88	111.42	222.84	445.68	891.36	2228.40	4456.80	44568.	8.75%	8.75%	7.60%
3/54 THRU 3/54	11/1/87	107.92	215.84	431.68	863.36	2158.40	4316.80	43168.	8.75%	8.75%	7.70%
4/54 THRU 4/54	12/1/87	109.29	218.58	437.16	874.32	2185.80	4371.60	43716.	8.75%	8.75%	7.70%
5/54 THRU 5/54	1/1/88	109.29	218.58	437.16	874.32	2185.80	4371.60	43716.	8.75%	8.75%	7.70%
6/54 THRU 8/54	2/1/88	109.58	219.16	438.32	876.64	2191.60	4383.20	43832.	8.75%	8.75%	7.70%
9/54 THRU 9/54	11/1/87	106.13	212.26	424.52	849.04	2122.60	4245.20	42452.	8.75%	8.75%	7.80%
10/54 THRU 10/54	12/1/87	107.54	215.08	430.16	860.32	2150.80	4301.60	43016.	8.75%	8.75%	7.81%
11/54 THRU 11/54	1/1/88	107.54	215.08	430.16	860.32	2150.80	4301.60	43016.	8.75%	8.75%	7.81%
12/54 THRU 2/55	2/1/88	107.80	215.60	431.20	862.40	2156.00	4312.00	43120.	8.75%	8.75%	7.80%
3/55 THRU 3/55	11/1/87	104.38	208.76	417.52	835.04	2087.60	4175.20	41752.	8.75%	8.75%	7.90%
4/55 THRU 4/55	12/1/87	105.74	211.48	422.96	845.92	2114.80	4229.60	42296.	8.75%	8.75%	7.90%
5/55 THRU 5/55	1/1/88	105.74	211.48	422.96	845.92	2114.80	4229.60	42296.	8.75%	8.75%	7.90%
6/55 THRU 8/55	2/1/88	106.02	212.04	424.08	848.16	2120.40	4240.80	42408.	8.75%	8.75%	7.90%
9/55 THRU 9/55	11/1/87	102.69	205.38	410.76	821.52	2053.80	4107.60	41076.	8.75%	8.75%	8.00%
10/55 THRU 10/55	12/1/87	104.07	208.14	416.28	832.56	2081.40	4162.80	41628.	8.75%	8.75%	8.00%
11/55 THRU 11/55	1/1/88	104.07	208.14	416.28	832.56	2081.40	4162.80	41628.	8.75%	8.75%	8.00%
12/55 THRU 2/56	2/1/88	104.33	208.66	417.32	834.64	2086.60	4173.20	41732.	8.75%	8.75%	8.00%
3/56 THRU 3/56	11/1/87	101.05	202.10	404.20	808.40	2021.00	4042.00	40420.	8.75%	8.75%	8.10%
4/56 THRU 4/56	12/1/87	103.89	207.78	415.56	831.12	2077.80	4155.60	41556.	8.75%	8.75%	8.10%
5/56 THRU 5/56	1/1/88	103.89	207.78	415.56	831.12	2077.80	4155.60	41556.	8.75%	8.75%	8.10%
6/56 THRU 8/56	2/1/88	104.12	208.24	416.48	832.96	2082.40	4164.80	41648.	8.75%	8.75%	8.10%
9/56 THRU 9/56	11/1/87	100.83	201.66	403.32	806.64	2016.60	4033.20	40332.	8.75%	8.75%	8.20%
10/56 THRU 10/56	12/1/87	102.00	204.00	408.00	816.00	2040.00	4080.00	40800.	8.75%	8.75%	8.20%
11/56 THRU 11/56	1/1/88	102.00	204.00	408.00	816.00	2040.00	4080.00	40800.	8.75%	8.75%	8.20%
12/56 THRU 1/57	2/1/88	102.60	205.20	410.40	820.80	2052.00	4104.00	41040.	8.75%	8.75%	8.20%
2/57 THRU 5/57	1/1/88	103.99	207.98	415.96	831.92	2079.80	4159.60	41596.	8.75%	8.75%	8.10%

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U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1987 THRU APR 1, 1988

ISSUE PRICE	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500.			
DENOMINATION	25.00	50.00	100.00	200.00	500.00	1000.00	10000.			
ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)							ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
6/57 THRU 6/57	11/1/87	101.15	202.30	404.60	809.20	2023.00	4046.00	40460.	8.75%	8.75%	8.20%
7/57 THRU 7/57	12/1/87	102.32	204.64	409.28	818.56	2046.40	4092.80	40928.	8.75%	8.75%	8.20%
8/57 THRU 11/57	1/1/88	102.32	204.64	409.28	818.56	2046.40	4092.80	40928.	8.75%	8.75%	8.20%
12/57 THRU 12/57	11/1/87	99.53	199.06	398.12	796.24	1990.60	3981.20	39812.	8.75%	8.75%	8.00%
1/58 THRU 1/58	12/1/87	100.71	201.42	402.84	805.68	2014.20	4028.40	40284.	8.75%	8.75%	8.00%
2/58 THRU 5/58	1/1/88	100.71	201.42	402.84	805.68	2014.20	4028.40	40284.	8.75%	8.75%	8.00%
6/58 THRU 6/58	11/1/87	97.95	195.90	391.80	783.60	1959.00	3918.00	39180.	8.75%	8.75%	8.25%
7/58 THRU 7/58	12/1/87	99.08	198.16	396.32	792.64	1981.60	3963.20	39632.	8.75%	8.75%	8.25%
8/58 THRU 11/58	1/1/88	99.08	198.16	396.32	792.64	1981.60	3963.20	39632.	8.75%	8.75%	8.25%
12/58 THRU 12/58	11/1/87	96.38	192.76	385.52	771.04	1927.60	3855.20	38552.	8.75%	8.75%	8.50%
1/59 THRU 1/59	12/1/87	97.53	195.06	390.12	780.24	1950.60	3901.20	39012.	8.75%	8.75%	8.50%
2/59 THRU 5/59	1/1/88	97.53	195.06	390.12	780.24	1950.60	3901.20	39012.	8.75%	8.75%	8.50%
6/59 THRU 7/59	3/1/88	97.26	194.52	389.04	778.08	1945.20	3890.40	38904.	8.75%	8.75%	7.99%
8/59 THRU 8/59	11/1/87	94.19	188.38	376.76	753.52	1883.80	3767.60	37676.	8.75%	8.75%	8.25%
9/59 THRU 9/59	12/1/87	95.25	190.50	381.00	762.00	1905.00	3810.00	38100.	8.75%	8.75%	8.25%
10/59 THRU 11/59	1/1/88	95.25	190.50	381.00	762.00	1905.00	3810.00	38100.	8.75%	8.75%	8.25%
12/59 THRU 1/60	3/1/88	95.45	190.90	381.80	763.60	1909.00	3818.00	38180.	8.75%	8.75%	8.25%
2/60 THRU 2/60	11/1/87	92.45	184.90	369.80	739.60	1849.00	3698.00	36980.	8.75%	8.75%	8.50%
3/60 THRU 3/60	12/1/87	93.51	187.02	374.04	748.08	1870.20	3740.40	37404.	8.75%	8.75%	8.50%
4/60 THRU 5/60	1/1/88	93.51	187.02	374.04	748.08	1870.20	3740.40	37404.	8.75%	8.75%	8.50%
6/60 THRU 7/60	3/1/88	93.67	187.34	374.68	749.36	1873.40	3746.80	37468.	8.75%	8.75%	8.50%
8/60 THRU 8/60	11/1/87	90.73	181.46	362.92	725.84	1814.60	3629.20	36292.	8.75%	8.75%	8.50%
9/60 THRU 9/60	12/1/87	91.78	183.56	367.12	734.24	1835.60	3671.20	36712.	8.75%	8.75%	8.50%
10/60 THRU 11/60	1/1/88	91.78	183.56	367.12	734.24	1835.60	3671.20	36712.	8.75%	8.75%	8.50%
12/60 THRU 1/61	3/1/88	91.95	183.90	367.80	735.60	1839.00	3678.00	36780.	8.75%	8.75%	8.50%
2/61 THRU 2/61	11/1/87	89.05	178.10	356.20	712.40	1781.00	3562.00	35620.	8.75%	8.75%	8.50%
3/61 THRU 3/61	12/1/87	90.07	180.14	360.28	720.56	1801.40	3602.80	36028.	8.75%	8.75%	8.50%
4/61 THRU 5/61	1/1/88	90.07	180.14	360.28	720.56	1801.40	3602.80	36028.	8.75%	8.75%	8.50%
6/61 THRU 7/61	3/1/88	90.34	180.68	361.36	722.72	1806.80	3613.60	36136.	8.75%	8.75%	8.50%
8/61 THRU 8/61	11/1/87	87.51	175.02	350.04	700.08	1750.20	3500.40	35004.	8.75%	8.75%	8.50%
9/61 THRU 9/61	12/1/87	88.48	176.96	353.92	707.84	1769.60	3539.20	35392.	8.75%	8.75%	8.50%
10/61 THRU 11/61	1/1/88	88.48	176.96	353.92	707.84	1769.60	3539.20	35392.	8.75%	8.75%	8.50%
12/61 THRU 1/62	3/1/88	88.72	177.44	354.88	709.76	1774.40	3548.80	35488.	8.75%	8.75%	8.50%
2/62 THRU 2/62	11/1/87	85.93	171.86	343.72	687.44	1718.60	3437.20	34372.	8.75%	8.75%	8.50%
3/62 THRU 3/62	12/1/87	86.55	173.10	346.20	692.40	1731.00	3462.00	34620.	8.75%	8.75%	8.50%
4/62 THRU 5/62	1/1/88	86.55	173.10	346.20	692.40	1731.00	3462.00	34620.	8.75%	8.75%	8.50%
6/62 THRU 7/62	3/1/88	86.78	173.56	347.12	694.24	1735.60	3471.20	34712.	8.75%	8.75%	8.50%
8/62 THRU 8/62	11/1/87	84.01	168.02	336.04	672.08	1680.20	3360.40	33604.	8.75%	8.75%	8.50%
9/62 THRU 9/62	12/1/87	84.63	169.26	338.52	677.04	1692.60	3385.20	33852.	8.75%	8.75%	8.50%

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U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1987 THRU APR 1, 1988

ISSUE PRICE		$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500.			
DENOMINATION		25.00	50.00	100.00	200.00	500.00	1000.00	10000.			
ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)							ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
10/62 THRU 11/62	1/1/88	84.63	169.26	338.52	677.04	1692.60	3385.20	33852.	8.75%	8.75%	8.50%
12/62 THRU 1/63	3/1/88	84.96	169.92	339.84	679.68	1699.20	3398.40	33984.	8.75%	8.75%	8.50%
2/63 THRU 2/63	11/1/87	82.31	164.62	329.24	658.48	1646.20	3292.40	32924.	8.75%	8.75%	8.50%
3/63 THRU 3/63	12/1/87	82.69	165.38	330.76	661.52	1653.80	3307.60	33076.	8.75%	8.75%	8.50%
4/63 THRU 5/63	1/1/88	82.69	165.38	330.76	661.52	1653.80	3307.60	33076.	8.75%	8.75%	8.50%
6/63 THRU 7/63	3/1/88	83.31	166.62	333.24	666.48	1666.20	3332.40	33324.	8.75%	8.75%	8.50%
8/63 THRU 8/63	11/1/87	80.68	161.36	322.72	645.44	1613.60	3227.20	32272.	8.75%	8.75%	8.50%
9/63 THRU 9/63	12/1/87	81.08	162.16	324.32	648.64	1621.60	3243.20	32432.	8.75%	8.75%	8.50%
10/63 THRU 11/63	1/1/88	81.08	162.16	324.32	648.64	1621.60	3243.20	32432.	8.75%	8.75%	8.50%

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U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1987 THRU APR 1, 1988

ISSUE PRICE	$18.75	$37.50	$56.25	$ 75.00	$150.00	$375.00	$ 750.00	$ 7500.
DENOMINATION	25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000.

ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)								ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
12/63 THRU 1/64	3/1/88	81.59	163.18	244.77	326.36	652.72	1631.80	3263.60	32636.	8.75%	8.75%	8.50%
2/64 THRU 2/64	11/1/87	79.01	158.02	237.03	316.04	632.08	1580.20	3160.40	31604.	8.75%	8.75%	8.50%
3/64 THRU 3/64	12/1/87	79.39	158.78	238.17	317.56	635.12	1587.80	3175.60	31756.	8.75%	8.75%	8.50%
4/64 THRU 5/64	1/1/88	79.39	158.78	238.17	317.56	635.12	1587.80	3175.60	31756.	8.75%	8.75%	8.50%
6/64 THRU 7/64	3/1/88	79.92	159.84	239.76	319.68	639.36	1598.40	3196.80	31968.	8.75%	8.75%	8.50%
8/64 THRU 8/64	11/1/87	77.40	154.80	232.20	309.60	619.20	1548.00	3096.00	30960.	8.75%	8.75%	8.50%
9/64 THRU 9/64	12/1/87	77.78	155.56	233.34	311.12	622.24	1555.60	3111.20	31112.	8.75%	8.75%	8.50%
10/64 THRU 11/64	1/1/88	77.78	155.56	233.34	311.12	622.24	1555.60	3111.20	31112.	8.75%	8.75%	8.50%
12/64 THRU 1/65	3/1/88	78.27	156.54	234.81	313.08	626.16	1565.40	3130.80	31308.	8.75%	8.75%	8.50%
2/65 THRU 2/65	11/1/87	75.80	151.60	227.40	303.20	606.40	1516.00	3032.00	30320.	8.75%	8.75%	7.50%
3/65 THRU 3/65	12/1/87	76.17	152.34	228.51	304.68	609.36	1523.40	3046.80	30468.	8.75%	8.75%	7.50%
4/65 THRU 5/65	1/1/88	76.17	152.34	228.51	304.68	609.36	1523.40	3046.80	30468.	8.75%	8.75%	7.50%
6/65 THRU 7/65	3/1/88	76.59	153.18	229.77	306.36	612.72	1531.80	3063.60	30636.	8.75%	8.75%	7.50%
8/65 THRU 8/65	11/1/87	74.18	148.36	222.54	296.72	593.44	1483.60	2967.20	29672.	8.75%	8.75%	7.60%
9/65 THRU 9/65	12/1/87	74.56	149.12	223.68	298.24	596.48	1491.20	2982.40	29824.	8.75%	8.75%	7.60%
10/65 THRU 11/65	1/1/88	74.56	149.12	223.68	298.24	596.48	1491.20	2982.40	29824.	8.75%	8.75%	7.60%
12/65 THRU 12/65	12/1/87	74.79	149.58	224.37	299.16	598.32	1495.80	2991.60	29916.	8.75%	8.75%	7.50%
1/66 THRU 4/66	1/1/88	74.79	149.58	224.37	299.16	598.32	1495.80	2991.60	29916.	8.75%	8.75%	7.50%
5/66 THRU 5/66	11/1/87	72.44	144.88	217.32	289.76	579.52	1448.80	2897.60	28976.	8.75%	8.75%	7.60%
6/66 THRU 6/66	12/1/87	73.18	146.36	219.54	292.72	585.44	1463.60	2927.20	29272.	8.75%	8.75%	7.60%
7/66 THRU 10/66	1/1/88	73.18	146.36	219.54	292.72	585.44	1463.60	2927.20	29272.	8.75%	8.75%	7.60%
11/66 THRU 11/66	11/1/87	70.88	141.76	212.64	283.52	567.04	1417.60	2835.20	28352.	8.75%	8.75%	7.70%
12/66 THRU 12/66	12/1/87	71.66	143.32	214.98	286.64	573.28	1433.20	2866.40	28664.	8.75%	8.75%	7.70%
1/67 THRU 4/67	1/1/88	71.66	143.32	214.98	286.64	573.28	1433.20	2866.40	28664.	8.75%	8.75%	7.70%
5/67 THRU 5/67	11/1/87	69.39	138.78	208.17	277.56	555.12	1387.80	2775.60	27756.	8.75%	8.75%	7.80%
6/67 THRU 6/67	12/1/87	70.17	140.34	210.51	280.68	561.36	1403.40	2806.80	28068.	8.75%	8.75%	7.80%
7/67 THRU 10/67	1/1/88	70.17	140.34	210.51	280.68	561.36	1403.40	2806.80	28068.	8.75%	8.75%	7.80%
11/67 THRU 11/67	11/1/87	67.98	135.96	203.94	271.92	543.84	1359.60	2719.20	27192.	8.75%	8.75%	7.90%
12/67 THRU 12/67	12/1/87	68.79	137.58	206.37	275.16	550.32	1375.80	2751.60	27516.	8.75%	8.75%	7.90%
1/68 THRU 4/68	1/1/88	68.79	137.58	206.37	275.16	550.32	1375.80	2751.60	27516.	8.75%	8.75%	7.90%
5/68 THRU 5/68	11/1/87	66.63	133.26	199.89	266.52	533.04	1332.60	2665.20	26652.	8.75%	8.75%	8.00%
6/68 THRU 6/68	12/1/87	67.43	134.86	202.29	269.72	539.44	1348.60	2697.20	26972.	8.75%	8.75%	8.00%
7/68 THRU 10/68	1/1/88	67.43	134.86	202.29	269.72	539.44	1348.60	2697.20	26972.	8.75%	8.75%	8.00%
11/68 THRU 11/68	11/1/87	65.29	130.58	195.87	261.16	522.32	1305.80	2611.60	26116.	8.75%	8.75%	8.10%
12/68 THRU 12/68	12/1/87	66.20	132.40	198.60	264.80	529.60	1324.00	2648.00	26480.	8.75%	8.75%	8.10%
1/69 THRU 4/69	1/1/88	66.20	132.40	198.60	264.80	529.60	1324.00	2648.00	26480.	8.75%	8.75%	8.10%
5/69 THRU 5/69	11/1/87	64.11	128.22	192.33	256.44	512.88	1282.20	2564.40	25644.	8.75%	8.75%	8.20%
6/69 THRU 6/69	4/1/88	66.75	133.50	200.25	267.00	534.00	1335.00	2670.00	26700.	8.75%	8.75%	7.90%
7/69 THRU 7/69	11/1/87	64.63	129.26	193.89	258.52	517.04	1292.60	2585.20	25852.	8.75%	8.75%	8.00%

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U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1987 THRU APR 1, 1988

ISSUE PRICE	$18.75	$37.50	$56.25	$ 75.00	$150.00	$375.00	$ 750.00	$ 7500.			
DENOMINATION	25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000.			
ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)								ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
8/69 THRU 8/69	12/1/87	64.80	129.60	194.40	259.20	518.40	1296.00	2592.00	25920.	8.75%	8.75%	8.00%
9/69 THRU 11/69	1/1/88	64.80	129.60	194.40	259.20	518.40	1296.00	2592.00	25920.	8.75%	8.75%	8.00%
12/69 THRU 12/69	4/1/88	65.14	130.28	195.42	260.56	521.12	1302.80	2605.60	26056.	8.75%	8.75%	8.00%
1/70 THRU 1/70	11/1/87	63.10	126.20	189.30	252.40	504.80	1262.00	2524.00	25240.	8.75%	8.75%	8.09%
2/70 THRU 2/70	12/1/87	63.24	126.48	189.72	252.96	505.92	1264.80	2529.60	25296.	8.75%	8.75%	8.10%
3/70 THRU 5/70	1/1/88	63.24	126.48	189.72	252.96	505.92	1264.80	2529.60	25296.	8.75%	8.75%	8.10%
6/70 THRU 6/70	4/1/88	63.53	127.06	190.59	254.12	508.24	1270.60	2541.20	25412.	8.75%	8.75%	8.10%
7/70 THRU 7/70	11/1/87	61.53	123.06	184.59	246.12	492.24	1230.60	2461.20	24612.	8.75%	8.75%	8.20%
8/70 THRU 8/70	12/1/87	61.70	123.40	185.10	246.80	493.60	1234.00	2468.00	24680.	8.75%	8.75%	8.19%
9/70 THRU 11/70	1/1/88	61.70	123.40	185.10	246.80	493.60	1234.00	2468.00	24680.	8.75%	8.75%	8.19%
12/70 THRU 12/70	4/1/88	61.82	123.64	185.46	247.28	494.56	1236.40	2472.80	24728.	8.75%	8.75%	8.20%
1/71 THRU 1/71	11/1/87	59.89	119.78	179.67	239.56	479.12	1197.80	2395.60	23956.	8.75%	8.75%	7.99%
2/71 THRU 2/71	12/1/87	60.03	120.06	180.09	240.12	480.24	1200.60	2401.20	24012.	8.75%	8.75%	7.99%
3/71 THRU 5/71	1/1/88	60.03	120.06	180.09	240.12	480.24	1200.60	2401.20	24012.	8.75%	8.75%	7.99%
6/71 THRU 6/71	4/1/88	60.20	120.40	180.60	240.80	481.60	1204.00	2408.00	24080.	8.75%	8.75%	8.00%
7/71 THRU 7/71	11/1/87	58.30	116.60	174.90	233.20	466.40	1166.00	2332.00	23320.	8.75%	8.75%	8.26%
8/71 THRU 8/71	12/1/87	58.43	116.86	175.29	233.72	467.44	1168.60	2337.20	23372.	8.75%	8.75%	8.24%
9/71 THRU 11/71	1/1/88	58.43	116.86	175.29	233.72	467.44	1168.60	2337.20	23372.	8.75%	8.75%	8.24%
12/71 THRU 12/71	4/1/88	58.57	117.14	175.71	234.28	468.56	1171.40	2342.80	23428.	8.75%	8.75%	8.25%
1/72 THRU 1/72	11/1/87	56.73	113.46	170.19	226.92	453.84	1134.60	2269.20	22692.	8.75%	8.75%	8.50%
2/72 THRU 2/72	12/1/87	56.87	113.74	170.61	227.48	454.96	1137.40	2274.80	22748.	8.75%	8.75%	8.50%
3/72 THRU 5/72	1/1/88	56.87	113.74	170.61	227.48	454.96	1137.40	2274.80	22748.	8.75%	8.75%	8.50%
6/72 THRU 6/72	4/1/88	57.02	114.04	171.06	228.08	456.16	1140.40	2280.80	22808.	8.75%	8.75%	8.50%
7/72 THRU 7/72	11/1/87	55.24	110.48	165.72	220.96	441.92	1104.80	2209.60	22096.	8.75%	8.75%	8.49%
8/72 THRU 8/72	12/1/87	55.36	110.72	166.08	221.44	442.88	1107.20	2214.40	22144.	8.75%	8.75%	8.49%
9/72 THRU 11/72	1/1/88	55.36	110.72	166.08	221.44	442.88	1107.20	2214.40	22144.	8.75%	8.75%	8.49%
12/72 THRU 12/72	4/1/88	55.47	110.94	166.41	221.88	443.76	1109.40	2218.80	22188.	8.75%	8.75%	8.50%
1/73 THRU 1/73	11/1/87	53.72	107.44	161.16	214.88	429.76	1074.40	2148.80	21488.	8.75%	8.75%	8.50%
2/73 THRU 2/73	12/1/87	53.86	107.72	161.58	215.44	430.88	1077.20	2154.40	21544.	8.75%	8.75%	8.50%
3/73 THRU 5/73	1/1/88	53.86	107.72	161.58	215.44	430.88	1077.20	2154.40	21544.	8.75%	8.75%	8.50%
6/73 THRU 6/73	4/1/88	53.97	107.94	161.91	215.88	431.76	1079.40	2158.80	21588.	8.75%	8.75%	8.51%
7/73 THRU 7/73	11/1/87	52.28	104.56	156.84	209.12	418.24	1045.60	2091.20	20912.	8.75%	8.75%	8.50%
8/73 THRU 8/73	12/1/87	52.40	104.80	157.20	209.60	419.20	1048.00	2096.00	20960.	8.75%	8.75%	8.50%
9/73 THRU 11/73	1/1/88	52.40	104.80	157.20	209.60	419.20	1048.00	2096.00	20960.	8.75%	8.75%	8.50%
12/73 THRU 12/73	12/1/87	51.53	103.06	154.59	206.12	412.24	1030.60	2061.20	20612.	8.75%	8.75%	8.51%
1/74 THRU 4/74	1/1/88	51.53	103.06	154.59	206.12	412.24	1030.60	2061.20	20612.	8.75%	8.75%	8.51%
5/74 THRU 5/74	11/1/87	49.92	99.84	149.76	199.68	399.36	998.40	1996.80	19968.	8.75%	8.75%	8.50%
6/74 THRU 6/74	12/1/87	50.04	100.08	150.12	200.16	400.32	1000.80	2001.60	20016.	8.75%	8.75%	8.50%
7/74 THRU 10/74	1/1/88	50.04	100.08	150.12	200.16	400.32	1000.80	2001.60	20016.	8.75%	8.75%	8.50%

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U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1987 THRU APR 1, 1988

ISSUE PRICE	$18.75	$37.50	$56.25	$ 75.00	$150.00	$375.00	$ 750.00	$ 7500.
DENOMINATION	25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000.

ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)								ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
11/74 THRU 11/74	11/1/87	48.46	96.92	145.38	193.84	387.68	969.20	1938.40	19384.	8.75%	8.75%	8.50%
12/74 THRU 12/74	12/1/87	48.57	97.14	145.71	194.28	388.56	971.40	1942.80	19428.	8.75%	8.75%	8.51%
1/75 THRU 4/75	1/1/88	48.57	97.14	145.71	194.28	388.56	971.40	1942.80	19428.	8.75%	8.75%	8.51%
5/75 THRU 5/75	11/1/87	47.05	94.10	141.15	188.20	376.40	941.00	1882.00	18820.	8.75%	8.75%	8.50%
6/75 THRU 6/75	12/1/87	47.15	94.30	141.45	188.60	377.20	943.00	1886.00	18860.	8.75%	8.75%	8.50%
7/75 THRU 10/75	1/1/88	47.15	94.30	141.45	188.60	377.20	943.00	1886.00	18860.	8.75%	8.75%	8.50%
11/75 THRU 11/75	11/1/87	45.68	91.36	137.04	182.72	365.44	913.60	1827.20	18272.	8.75%	8.75%	8.49%
12/75 THRU 12/75	12/1/87	45.77	91.54	137.31	183.08	366.16	915.40	1830.80	18308.	8.75%	8.75%	8.50%
1/76 THRU 4/76	1/1/88	45.77	91.54	137.31	183.08	366.16	915.40	1830.80	18308.	8.75%	8.75%	8.50%
5/76 THRU 5/76	11/1/87	44.33	88.66	132.99	177.32	354.64	886.60	1773.20	17732.	8.75%	8.75%	8.50%
6/76 THRU 6/76	12/1/87	44.42	88.84	133.26	177.68	355.36	888.40	1776.80	17768.	8.75%	8.75%	8.51%
7/76 THRU 10/76	1/1/88	44.42	88.84	133.26	177.68	355.36	888.40	1776.80	17768.	8.75%	8.75%	8.51%
11/76 THRU 11/76	11/1/87	43.03	86.06	129.09	172.12	344.24	860.60	1721.20	17212.	8.75%	8.75%	8.50%
12/76 THRU 12/76	12/1/87	43.15	86.30	129.45	172.60	345.20	863.00	1726.00	17260.	8.75%	8.75%	8.50%
1/77 THRU 4/77	1/1/88	43.15	86.30	129.45	172.60	345.20	863.00	1726.00	17260.	8.75%	8.75%	8.50%
5/77 THRU 5/77	11/1/87	41.78	83.56	125.34	167.12	334.24	835.60	1671.20	16712.	8.75%	8.75%	8.50%
6/77 THRU 6/77	12/1/87	41.89	83.78	125.67	167.56	335.12	837.80	1675.60	16756.	8.75%	8.75%	8.50%
7/77 THRU 10/77	1/1/88	41.89	83.78	125.67	167.56	335.12	837.80	1675.60	16756.	8.75%	8.75%	8.50%
11/77 THRU 11/77	11/1/87	40.56	81.12	121.68	162.24	324.48	811.20	1622.40	16224.	8.75%	8.75%	7.50%
12/77 THRU 12/77	12/1/87	40.66	81.32	121.98	162.64	325.28	813.20	1626.40	16264.	8.75%	8.75%	7.50%
1/78 THRU 4/78	1/1/88	40.66	81.32	121.98	162.64	325.28	813.20	1626.40	16264.	8.75%	8.75%	7.50%
5/78 THRU 5/78	11/1/87	37.56	75.12	112.68	150.24	300.48	751.20	1502.40	15024.	8.75%	8.75%	8.58%
6/78 THRU 6/78	12/1/87	37.56	75.12	112.68	150.24	300.48	751.20	1502.40	15024.	8.75%	8.75%	8.64%
7/78 THRU 10/78	1/1/88	37.56	75.12	112.68	150.24	300.48	751.20	1502.40	15024.	8.75%	8.75%	8.64%
11/78 THRU 11/78	11/1/87	36.46	72.92	109.38	145.84	291.68	729.20	1458.40	14584.	8.75%	8.75%	8.69%
12/78 THRU 12/78	12/1/87	36.46	72.92	109.38	145.84	291.68	729.20	1458.40	14584.	8.75%	8.75%	8.74%
1/79 THRU 4/79	1/1/88	36.46	72.92	109.38	145.84	291.68	729.20	1458.40	14584.	8.75%	8.75%	8.74%
5/79 THRU 5/79	11/1/87	35.48	70.96	106.44	141.92	283.84	709.60	1419.20	14192.	8.79%	8.75%	8.79%
6/79 THRU 6/79	12/1/87	35.56	71.12	106.68	142.24	284.48	711.20	1422.40	14224.	8.83%	8.75%	8.83%
7/79 THRU 10/79	1/1/88	35.56	71.12	106.68	142.24	284.48	711.20	1422.40	14224.	8.83%	8.75%	8.83%
11/79 THRU 11/79	11/1/87	34.60	69.20	103.80	138.40	276.80	692.00	1384.00	13840.	8.83%	8.75%	8.83%
12/79 THRU 12/79	12/1/87	34.60	69.20	103.80	138.40	276.80	692.00	1384.00	13840.	8.83%	8.75%	8.83%
1/80 THRU 4/80	1/1/88	34.60	69.20	103.80	138.40	276.80	692.00	1384.00	13840.	8.83%	8.75%	8.83%
5/80 THRU 5/80	11/1/87	33.68	67.36	101.04	134.72	269.44	673.60	1347.20	13472.	8.82%	8.75%	8.82%
6/80 THRU 6/80	12/1/87	33.68	67.36	101.04	134.72	269.44	673.60	1347.20	13472.	8.82%	8.75%	8.82%

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U.S. SAVINGS BONDS, NOTES - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1987 THRU APR 1, 1988

ISSUE PRICE			$20.25	$40.50	$60.75	$81.00			
DENOMINATION			25.00	50.00	75.00	100.00			
ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)					ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
5/67 THRU 5/67	11/1/87		76.23	152.46	228.69	304.92	8.75%	8.75%	8.50%
6/67 THRU 6/67	12/1/87		76.59	153.18	229.77	306.36	8.75%	8.75%	8.50%
7/67 THRU 10/67	1/1/88		76.59	153.18	229.77	306.36	8.75%	8.75%	8.50%
11/67 THRU 11/67	11/1/87		74.16	148.32	222.48	296.64	8.75%	8.75%	8.50%
12/67 THRU 12/67	12/1/87		74.53	149.06	223.59	298.12	8.75%	8.75%	8.50%
1/68 THRU 4/68	1/1/88		74.53	149.06	223.59	298.12	8.75%	8.75%	8.50%
5/68 THRU 5/68	11/1/87		72.18	144.36	216.54	288.72	8.75%	8.75%	7.50%
6/68 THRU 6/68	12/1/87		73.35	146.70	220.05	293.40	8.75%	8.75%	7.50%
7/68 THRU 10/68	1/1/88		73.35	146.70	220.05	293.40	8.75%	8.75%	7.50%
11/68 THRU 11/68	11/1/87		71.05	142.10	213.15	284.20	8.75%	8.75%	7.60%
12/68 THRU 12/68	12/1/87		71.43	142.86	214.29	285.72	8.75%	8.75%	7.60%
1/69 THRU 4/69	1/1/88		71.43	142.86	214.29	285.72	8.75%	8.75%	7.60%
5/69 THRU 5/69	11/1/87		69.17	138.34	207.51	276.68	8.75%	8.75%	7.70%
6/69 THRU 6/69	12/1/87		69.50	139.00	208.50	278.00	8.75%	8.75%	7.70%
7/69 THRU 10/69	1/1/88		69.50	139.00	208.50	278.00	8.75%	8.75%	7.70%
11/69 THRU 11/69	11/1/87		67.33	134.66	201.99	269.32	8.75%	8.75%	7.80%
12/69 THRU 12/69	12/1/87		67.64	135.28	202.92	270.56	8.75%	8.75%	7.80%
1/70 THRU 4/70	1/1/88		67.64	135.28	202.92	270.56	8.75%	8.75%	7.80%
5/70 THRU 5/70	11/1/87		65.52	131.04	196.56	262.08	8.75%	8.75%	7.90%
6/70 THRU 6/70	12/1/87		65.81	131.62	197.43	263.24	8.75%	8.75%	7.90%
7/70 THRU 10/70	1/1/88		65.81	131.62	197.43	263.24	8.75%	8.75%	7.90%

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U.S. SAVINGS BONDS, SERIES EE - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1987 THRU APR 1, 1988

ISSUE PRICE			$25.00	$37.50	$50.00	$100.00	$250.00	$500.00	$2500.00	$5000.			
DENOMINATION			50.00	75.00	100.00	200.00	500.00	1000.00	5000.00	10000.			
ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)									ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
1/80 THRU 4/80	1/1/88		49.32	73.98	98.64	197.28	493.20	986.40	4932.00	9864.	9.90%	8.75%	9.90%
5/80 THRU 10/80	11/1/87		47.14	70.71	94.28	188.56	471.40	942.80	4714.00	9428.	9.64%	8.75%	9.64%
11/80 THRU 4/81	11/1/87		45.42	68.13	90.84	181.68	454.20	908.40	4542.00	9084.	9.50%	8.75%	9.50%
5/81 THRU 10/81	11/1/87		43.70	65.55	87.40	174.80	437.00	874.00	4370.00	8740.	9.54%	8.75%	9.54%
11/81 THRU 4/82	11/1/87		41.66	62.49	83.32	166.64	416.60	833.20	4166.00	8332.	9.24%	8.75%	9.24%
5/82 THRU 10/82	11/1/87		39.72	59.58	79.44	158.88	397.20	794.40	3972.00	7944.	9.06%	8.75%	9.06%
11/82 THRU 4/83	11/1/87		38.38	57.57	76.76	153.52	383.80	767.60	3838.00	7676.	8.76%	8.75%	7.51%

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 40a

Defense Contracting; Reporting Procedures on Defense Related Employment

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: This rule is the fiscal year 1987 revision of the section listing DOD contractors receiving contract awards of $10 million or more. This part is published to comply with the provisions of section 1, Pub. L. 97-295, October 12, 1982; 10 U.S.C. 2397.

EFFECTIVE DATE: September 30, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. J.R. Sungenis, Director for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Telephone (202) 746-0334.

List of Subjects in 32 CFR Part 40a

Armed Forces, Conflict of interests, Government employees, Government procurement, Reporting and recordkeeping requirements.

Accordingly, 32 CFR Part 40a is revised to read as follows:

PART 40a—DEFENSE CONTRACTING: REPORTING PROCEDURES ON DEFENSE RELATED EMPLOYMENT

Authority: 10 U.S.C. 2397.

§ 40a.1 Department of Defense contractors receiving contract awards of $10 million or more.

Fiscal Year 1987:

AAI Corp.
ACC Construction Co., Inc.
ALS Corp.
AM General Corp.
ARE Mfg. Co., Inc.
AT&T Information Systems
AT&T Technologies, Inc.
A & S Tribal Industries
Abbott Laboratories
Aberici, J.S. Construction Co.
Abex Corp.
Accudyne Corp.
Action Mfg. Co.
Acurex Corp.
Addsco Industries, Inc.
Advanced Marine Enterprises
Advanced Technology, Inc.
Aerojet General Corp.
Aerospace Corp., The
Agip Petroli Spa
Airspace Technology Corp.
Aksarben Foods
Alabama Power Co.
Alascom, Inc.
Aleman Food Service, Inc.
Aleutian Constructors
Algernon Blair, Inc.
Alice Tankships
Alliance Health System
Allied Corp.
Alpha Industries, Inc.
Altus Corp.
Amelco Corp.
Amerada Hess Corp.
American Airlines, Inc.
American Cyanamid Co., Inc.
American Development Corp.
American Dredging Co.
American Electronic Laboratories
American Express Co.
American Fuel Cell & Coated Fabrics Co.
American Management Systems, Inc.
American President Lines, Ltd.
American Satellite Co.
American Seating Co.
American Systems Corp.
American Telephone & Telegraph Co.
American Trans Air, Inc.
Ametek, Inc.
Amex Systems, Inc.
Amoco Corp.
Amoroso, S.J. Construction Co.
Ampex Corp.
Amron Corp.
Amstar Technical Products Co.
Analysis & Technology, Inc.
Analytic Sciences Corp., The
Analytic Services, Inc.
Analytical Systems Engineering Corp.
Analytics, Inc.
Andersen, Arthur & Co.
Anglo Petroleum, Ltd.
Anker Kolen Maatschappij BV
Applied Research, Inc.
Aquidneck Systems International
Arcwel Corp.
Argosystems, Inc.
Arinc Research Corp.
Arkla, Inc.
Arral Industries, Inc.
Artco Contracting, Inc.
Ashland Petroleum Co.
Astronautics Corp. of America
Atkinson, Guy F. Co.
Atlantic Marine, Inc.
Atlantic Research Corp.
Atlantic Richfield Co.
Atlas Processing Co.
Aul Instruments, Inc.
Austin Co., The
Automar III Corp.
Automated Machine Products, Inc.
Automated Sciences Group, Inc.
Avco Corp.
Avondale Industries, Inc.
Aydin Corp.
B & C Corp.
BBN Communications Corp.
BDM Corp., The
BDM Services Co.
BEI Electronics, Inc.
BH Aircraft Co., Inc.
BP North America, Inc.
Bahrain National Oil
Baldy Brothers Constructors
Ball Corp.
Barnes & Reinecke, Inc., Delaware
Barnhart, Douglas E., Inc.
Barrett Refining Corp.
Base Ten Systems, Inc.
Basil, Frank E., Inc. of Delaware
Bates, Ted Worldwide, Inc.
Bath Iron Works Corp.
Battelle Memorial Institute
Battenfeld American, Inc.
Bauwens, Peter
Baxter Healthcare Corp.
Bay Tankers, Inc.
Bean Dredging Corp.
Beatrice Companies, Inc.
Bechtel Constructors Corp.
Beech Aerospace Services, Inc.
Beech Aircraft Corp.
Belcher New England, Inc.
Bell Helicopter Textron & Boeing Co., JV
Bell Helicopter Textron, Inc.
Belleville Shoe Mfg. Co.
Bendix Field Engineering Corp.
Beretta USA Corp.
Berry Construction, Inc.
Bertucci, Anthony Construction Co.
Betac Corp.
Bethlehem Steel Corp.
Bilfinger & Berger Bauaktienge
Black Construction Corp.
Black River Constructors
Blaw Knox Corp.
Blinderman Construction Co., Inc.
Blount Brothers Corp.
Blue Cross & Blue Shield of Rhode Island
Bodell Construction
Boeing Co., The
Boeing Technical Operations
Bollinger Machine Shop & Shipyard, Inc.
Bolt Beranek & Newman, Inc.
Booz Allen & Hamilton, Inc.
Boro Developers, Inc.
Boston Gas Co.
Bozell, Jacobs, Kenyon & Eckhardt
Braintree Maritime Corp.
Braswell Shipyards, Inc.
Brinderson Corp.
British Aerospace PLC
Broadmoor Corp.
Brown, Dayton T., Inc.
Browning Construction Co.
Brunswick Corp.
Bulova Systems & Instruments Corp.
Bundesamt Fuer Wehrtechnik Und

Beschoffung
Burch, R.A. Construction Co., Inc.
Burlington Industries, Inc.
Burnside Ott Aviation Training Center
Burtek, Inc.
Butt Construction Co., Inc.
C3, Inc.
C Construction Co., Inc.
CACI International, Inc.
CAS, Inc.
CBC Enterprises, Inc.
CBI Na-Con, Inc.
CDI Marine Co.
CER, Inc.
CFM International, Inc.
CFS Aircargo, Inc.
CRS Group & Metcalf Eddy
Caddell Construction Co., Inc.
Cadillac Gage Company
Caelter Industries, Inc.
Calcasieu Refining Co.
California Microwave, Inc.
California Pacific Associates
Calspan Corp.
Camel Mfg. Co.
Campbell, E.C., Inc.
Campbells Soup Inter-America, Inc.
Canonie Constructors, Inc.
Cantu Services, Inc.
Carbon Hill Mfg. Co.
Caribbean Gulf Refining Corp.
Carnation Co.
Carnegie Mellon University
Carolina Power & Light Co.
Carothers Construction, Inc.
Case, Inc.
Case, J.I. Co.
Caterpillar, Inc.
Cates Construction, Inc.
Centel Business Information Systems
Centex Construction Co.
Central Gulf Lines, Inc.
Central Texas College
Centre Mfg. Co., Inc.
Cessna Aircraft Co., Inc.
Chamberlain Mfg. Corp.
Champion Spark Plug Co.
Chase Manhattan Corp.
Chemical Waste Management
Chesapeake & Potomac Telephone Co.
Chevron USA, Inc.
Chouest Edison Offshore, Inc.
Chromalloy American Corp.
Chrysler Corp.
Cibro Sales Corp.
Cincinnati Electronics Corp.
Cincinnati Milacron, Inc.
Citgo Petroleum Corp.
City Public Service (San Antonio, TX)
Clark Enterprises, Inc.
Clement Brothers Co.
Cleveland Pneumatic Co.
Coastal Eagle Point Oil Co.
Coastal Refining & Marketing
Coated Sales, Inc.
Cobro Corp.
Coca-Cola Co., Inc.
College of Lake County
Collins International Service Co.
Colonnas Shipyard, Inc.
Colorado Springs, City of
Colsa, Inc.
Colt Industries, Inc.
Comarco, Inc.
Combustion Engineering, Inc.
Comptek Research, Inc.
Computer Data Systems, Inc.
Computer Dynamics, Inc.
Computer Engineering Associates
Computer Science Innovations
Computer Sciences Corp.
Computer Technology Associates
Computervision Corp.
Comstock Communications, Inc.
Conax Corp.
Condec Corp.
Connor Harben Construction Co., Inc.
Conoco, Inc.
Consolidated Electronic Countermeasures, ITT & Westinghouse, JV
Construcciones Aeronauticas SA
Continental Maritime Industries
Continental Maritime of San Diego
Contraves Goerz Corp.
Control Data Corp.
Cook, J.W. & Sons, Inc.
Coopers & Lybrand
Cornell University
Cosmo Oil Co., Ltd.
Couch, Inc.
Craft Machine Works, Inc.
Crane Co.
Crawford Technical Services, Inc.
Cray Research, Inc.
Cross Systems, Inc.
Cubic Communications, Inc.
Cubic Corp.
Cummins Engine Co., Inc.
Curtiss Wright Corp.
DCS Corp.
DGWT Netherlands
Daimler Benz AG
Daniel, Mann, Johnson, Mendenhall
Dartco Mfg., Inc.
Data General Corp.
Dataproducts New England, Inc.
Datatape, Inc.
Day & Zimmerman, Inc.
Dayton Power & Light Co.
Deere & Co.
Deere, John Co.
Deere, John Technologies International
Defense Research, Inc.
Del Jen, Inc.
Del Monte Corp.
Delta Industries, Inc.
Delta Petroleum Co., Inc.
Denro, Inc.
Design & Construction Associates
Designers & Planners, Inc.
Detyens Shipyards, Inc.
Deutsche Bundespost
Deval Corp.
Devils Lake Sioux Mfg. Corp.
Diagnostic Retrieval Systems, Inc.
Diamond, Arnold M., Inc.
Diamond Shamrock Refining & Marketing
Dick Corp.
Digital Equipment Corp.
Dillingham Construction
Donat GERG
Dongsan Construction & Engineering
Dowty Aerospace Co.
Drake, Donald M. Co.
Draper, Charles Stark Laboratories
Dravo Corp.
Dresser Industries, Inc.
Du Pont, E.I. De Nemours & Co.
Duracell, Inc.
Dynalec Corp.
Dynamic Controls Corp.
Dynamic Science, Inc.
Dynamics Research Corp.
Dynaspan Services Co.
Dynateria, Inc.
Dyncorp, Inc.
Dynetics, Inc.
E G & G, Inc.
E G & G Washington Analytical Services Center
E Systems, Inc.
EC Corp., The
EDP Enterprises, Inc.
ESL, Inc.
Eagle Technology, Inc.
Earth Technology Corp.
Eastman Kodak Co.
Eastport International, Inc.
Eaton Corp.
Edo Corp.
Educational Computer Corp.
El Paso Refining, Inc.
Electro Design Mfg.
Electro Methods, Inc.
Electronic Data Systems Corp.
Electronic Warfare Associates
Electrospace Systems, Inc.
Elle Petroleum Corp.
Emco, Inc.
Emerson Electric Co.
Engineered Air Systems, Inc.
Engineering & Economics Research
Entwistle Co., Inc. (The)
Environmental Health Research & Testing
Environmental Science & Engineering
Environmental Tectonics Corp.
Essex Cryogenics of Missouri
Essex Electro Engineers, Inc.
Evaluation Research Corp.
Evergreen International Airlines
Ex Cell O Corp.
Expander Transport Corp.
Expeditor Transport Corp.
Exporter Transport Corp.
Expressor Transport Corp.
Extender Transport Corp.
Exxon Corp.
FEL Corp.
FMC Corp.
FMS Corp.
FN Mfg., Inc.

Fabrique Nationale Hestal SA
Fairchild Weston Systems, Inc.
Fairey Engineering, Ltd.
Falcon Carriers, Inc.
Falcon Systems, Inc.
Fansteel, Inc.
Farfield Co., The
Farrell Lines, Inc.
Fastrax, Inc.
Federal Cartridge Corp.
Federal Computer Corp.
Federal Data Corp.
Federal Data Systems, Inc.
Federal Electric Corp.
Fednav USA, Inc.
Fiber Materials, Inc.
Fibercom, Inc.
Figgie International, Inc.
Firestone Tire & Rubber Co.
Fischback & Moore International
Flameco Engineering, Inc.
Flight International Group, Inc.
Flight Systems, Inc.
Flightsafety International, Inc.
Florida Power & Light Co.
Fluke, John Mfg. Co., Inc.
Flying Tiger Line, Inc.
Fokker BV
Ford Aerospace Communications Corp.
Freightliner Corp.
Frontier Engineering, Inc.
Fruin Colnon Corp.
G & C Enterprises, Inc.
GA Technologies, Inc.
GEC Avionics, Ltd.
GNB, Inc.
GTE Government Systems, Inc.
GTE Products Corp. (Delaware)
GTE Telecom, Inc.
Garrett Corp.
Gates Construction Corp.
Gates Learjet Corp.
Gay, Robert Construction Co.
General Battery Corp.
General Defense Corp.
General Dynamics Corp.
General Electric Co.
General Foods Corp.
General Instrument Corp. (Delaware)
General Mills, Inc.
General Motors Corp.
General Offshore Corp.
General Physics Corp.
General Railroad Equipment & Services
General Research Corp.
General Ship Corp.
General Signal Corp.
Genrad, Inc.
Gentex Corp.
Geo Centers, Inc.
Geodynamics Corp.
Georgia Institute of Technology
Georgia Power Co.
Gibbs & Cox, Inc.
Giga Tronics, Inc.
Global Associates, JV
Global Petroleum Corp.
Goodrich, B.F. Co.
Goodyear Tire & Rubber Co.
Gould Computer Systems, Inc.
Gould, Inc.
Graham Contracting, Inc.
Grammtech, Inc.
Granite Construction Co.
Great Lakes Dredge & Dock Co.
Greenbrier Industries, Inc.
Grey Advertising, Inc.
Grizzly Construction, Inc.
Groathouse Construction, Inc.
Grumman Aerospace Corp.
Grumman Corp.
Gulf Coast Trailing Co.
Gulfstream Aerospace Corp. (Delaware)
H & H Aerospace Design, Inc.
HLJ Construction & Management Group
HR Textron, Inc.
HRB Singer, Inc.
Halifax Engineering, Inc.
Halter Marine, Inc.
Hamilton Enterprises, Inc.
Hamilton Technology, Inc.
Hanson Construction Co.
Harbert International, Inc.
Harnischfeger Corp.
Harris Corp.
Harris, Magnavox Systems Co., JV
Harsco Corp.
Harvard Industries, Inc.
Hawaiian Airlines, Inc.
Hawaiian Electric Co., Inc.
Hawaiian Telephone Co.
Haworth Industries, Inc.
Hayes International Corp.
Hazeltine Corp.
Head, Inc.
Heckenthorn Mfg. Co.
Held & Francke
Henderson, H.F. Industries
Hensel Phelps Construction Co.
Hercules Engines, Inc.
Hercules, Inc.
Hermes Consolidated, Inc.
Hewlett Packard Co.
Hochtief AG
Hoffman La Roche, Inc.
Hollingsworth, John R. Co.
Holmes & Narver, Inc.
Holmes & Narver/Morrison Knudson
Holston Defense Corp.
Honam Oil Refinery Co., Ltd.
Honeywell Bull, Inc.
Honeywell, Inc.
Hooks, Mike, Inc.
Horizons Technology, Inc.
Howmet Turbine Components Corp.
Hudson Institute, Inc.
Hughes Aircraft Co.
Hunt Building Corp.
Hydroscience, Inc.
Hyman, George Construction Co.
Hyster Co.
Hyundai Engineering & Construction
ICI Americas, Inc.
ICSD Corp.
IIT Research Institute
ILC Industries, Inc.
ISC Defense Systems, Inc.
ITT & Varo, JV
ITT Corp.
Iber, C. & Sons, Inc.
Ibex, Ltd., Inc.
Ibis Corp.
Idemitsu Kosan Co., Ltd.
Imo Delaval
Imperial Oil Co., Inc.
Imperial Tooling & Mfg., Inc.
Indian Bar Co., Inc.
Industrial Acoustics Co.
Information Development & Applications
Information Spectrum, Inc.
Information Systems Networks Corp.
Infotec Development, Inc.
Ingersoll Rand Co.
Institute for Defense Analysis
Integrated Microcomputer Systems
Integrated Systems Analysts
Inter Marine USA
Interco, Inc.
Intercontinental Mfg. Co.
Intermetrics, Inc.
International Business Machines Co.
International Business Services, Inc.
International Marine Carrier
International Terminal Operating Co.
Interstate Airlines, Inc.
Interstate Electronics Corp.
Irvin industries, Inc.
Iscar Blades, Ltd.
Israel Aircraft Industries, Ltd.
Isratex, Inc.
Itek Corp.
Jackson Construction
Jacksonville Shipyards, Inc.
James, T.L. & Co., Inc.
Japan Aircraft Mfg. Co.
Jaycor
Jersey Central Power & Light Co.
Johns Hopkins University
Johnson Energy Co.
Jonathan Corp., The
Jones Group, Inc., The
Jones, J.A. Construction Co.
Jones, John T. Construction Co.
Jowett, Inc.
Junghans Feinwerktechik
KDI Precision Products, Inc.
Kaiser Aerospace & Electronics Co.
Kaiser Engineers, Inc.
Kaman Aerospace Corp.
Kaman Corp.
Kaman Sciences Corp.
Kansas Power & Light Co., Inc.
Kasler Corp.
Kay & Associates, Inc.
Keco Industries, Inc.
Kellogg Sales Co.
Kelsey Hayes Co.
Kemenash, D. & Associates, Inc.
Key Holding Corp.
Kidde, Inc.
Kimberly Clark Corp.

Kirkpatrick Leavenworth, Inc.
Kisco Co., Inc.
Koehring Co.
Kokusai Denshin Denwa Co., Ltd.
Kollmorgen Corp.
Konoike Construction Co.
Korea Electric Power Corp.
Korean Air Lines Co., Ltd.
Kovatch Corp.
Kraus, Peter
Kuwait National Petroleum Co.
LSI Avionic Systems
LTV Aerospace & Defense Co.
LTV Corp., The
Laguna Industries, Inc.
Lake Shore, Inc.
Laketon Refining, Inc.
Landoll Corp.
Lane Construction Corp.
Lansing, Inc.
Lavino, E.J. & Co.
Leal Petroleum Corp.
Lear Siegler, Inc.
Lenzar Optics Corp.
Lewis Management & Services Co.
Libby Corp.
Liberty Construction, Inc.
Life Cycle Engineering, Inc.
Light Helicopter Turbine Engine Co.
Lilly, David B., Co., Inc.
Little, Arthur D., Inc.
Litton Industries, Inc.
Litton Systems, Inc.
Local Contractors, Inc.
Lock Twenty Six Constructors
Lockheed Corp.
Lockheed Electronics Co.
Lockheed Missiles & Space Co.
Lockheed Shipbuilding Co.
Locus, Inc.
Loggins Meat Co.
Logicon, Inc.
Logistics Management Institute
Lone Star General Contractors
Loral Corp.
Loral Electro Optical Systems
Loral Hycor, Inc.
Loral Rolm Mil Spec Computers
Lord & Son Construction Co.
Lott Constructors, Inc.
Lott, H.A., Inc.
Louisville Gas & Electric Co., Inc.
Luhr Brothers, Inc.
Lukens Steel Co.
Lundy Electronics & Systems
Lyda, Inc.
Lykes Brothers Steamship Co., Inc.
MC General, Inc.
MK Ferguson Co.
MPB Corp.
M/A Com, Inc.
M/A Com Linkabit Corp.
Magnavox Electronic Systems Co.
Magnavox Government & Industrial Electronics Co.
Magnavox Overseas, Ltd.
Majestic Metal Fabricating Co.
Management & Technical Services Co.
Management Consulting & Research, Inc.
Mandex, Inc.
Mantech Field Engineering Corp.
Mantech International Corp.
Mapco, Inc.
Mar, Inc.
Marable, W.M., Inc.
Maremont Corp.
Marine Hydraulics International
Marinette Marine Corp.
Marion Laboratories, Inc.
Martin Baker Aircraft Co., Ltd.
Martin Electronics, Inc.
Martin Marietta, Diehl Co's., Thorn & Thomson, JV
Martin Marietta Corp.
Mason Chamberlain, Inc.
Massachusetts Institute of Technology
Massachusetts, University of
Mast Construction Co.
Matra
Maxwell Laboratories, Inc.
Maya Construction Co.
McCarthy Construction & Mark Diversified, Inc., JV
McCarty Corp., The
McDermott, Inc.
McDonnell Douglas Corp.
McDonnell Douglas Helicopter
McDonnell Douglas Inco, Inc.
McDonnell Douglas Training System
McKee, Robert E., Inc.
McLaughlin Research Corp.
McMullan, Robert & Son, Inc.
McMullen, John J. Associates, Inc.
McRae Industries, Inc.
Meintzer, J.E. & Sons, Inc.
Menasco, Inc.
Merck & Co., Inc.
Mergentine Corp.
Merritt Meridian Construction Corp.
Mesa Services International
Messerschmitt Boelkow Blohm
Metal Trades, Inc.
Metcalf & Eddy, Inc.
Metro Machine Corp.
Mi Ryung Construction Co., Ltd.
Michelson Organization
Midland Ross Corp.
Midwest Construction Co.
Milcom Systems Corp.
Miller Herman, Inc.
Miller Holzwarth, Inc.
Mills Mfg. Corp.
Miltope Corp.
Mine Safety Appliances Co.
Minnesota Mining & Mfg. Co.
Minowitz Mfg. Co., Inc.
Mip Instandsetzungsbetric
Mission Research Corp.
Mississippi Tank & Mfg. Co.
Mitre Corp.
Mitsunaga Construction
Mobil Oil Corp.
Monarch Aviation, Inc.
Monty, Ike J., Inc.
Moog, Inc.
Moon Engineering Co., Inc.
Morrison Knudsen Corp.
Morrison Knudsen Engineers, Inc.
Mortenson, M.A. Co.
Morton Thiokol, Inc.
Motor Oils Hellas Corinth Refinery
Motorola Communications & Electronics
Motorola, Inc.
Munro & Co., Inc.
Murry, E.E. Construction Co., Inc.
NCR Corp.
NL Industries
NVE Constructors, Inc.
Nabisco Brands, Inc.
Nasin, J.S. Co.
Natco Limited Partnership
National Academy of Sciences
National Business Service Enterprises, Inc.
National Forge Co.
National Projects, Inc.
National Steel & Shipbuilding Co.
National Structure, Inc.
National Systems Management
Navajo Refining Co.
Navistar International Transportation Corp.
Nec Overseas Market Development
Needham, Inc.
Nero & Associates, Inc.
Network Solutions, Inc.
Network Systems Corp.
New Hampshire Ball Bearings
New Mexico State University
Newberg Brinderson, JV
Newhall Refining Co., Inc.
Newport News Shipbuilding & Dry Dock Co.
Nichols Research Corp.
Nimas Corp.
Nippon Hodo Co., Ltd.
Norden Systems, Inc.
Norfolk Dredging Co., Inc.
Norfolk Shipbuilding & Dry Dock Corp.
Northern Electrical Contractors
Northern Precision Laboratories
Northern Telecom, Inc. (Delaware)
Northland Associates, Inc.
Northrop Corp.
Northrop Services, Inc.
Northrop Worldwide Aircraft Services, Inc.
Northwest Airlines, Inc.
Northwest Marine Iron Works
Nova Group, Inc.
Nuclear Cooling, Inc.
Nuclear Metals, Inc.
OAO Corp.
ORC Industries, Inc.
OTO Melara SPA
Ocean Star Shipping, Inc.
Ocean Technology, Inc.
Ohbayashi Corp.
Ohio State University
Okinawa Electric Power Co.
Okinawa Sekiyu Seiser Co.
Olin Corp.
Optic Electronic Corp.

Opto Mechanik, Inc.
Ori, Inc.
Oshkosh Truck Corp.
Osterfield, H.J. Co., Inc.
Otto Heil Hoch, Tief, Strass
PA GMBH
PCC Technical Industries, Inc.
Paceco, Inc.
Pacer Systems, Inc.
Pacific Architects & Engineers
Pacific Gas & Electric Co.
Pan Am Support Service, Inc.
Pan Am World Services, Inc.
Pan American World Airways, Inc.
Parker Hannifin Corp.
Parsons, Ralph M. Co., The
Patrol Ofisi A S Genel Mud
Patty Precision Products Co.
Peat Marwick Main & Co.
Peco Enterprises, Inc.
Pence, Howard W., Inc.
Penn Metal Fabricators, Inc.
Pennsylvania Shipbuilding Co.
Pennsylvania State University
Pensacola Construction Co.
Perceptronics, Inc.
Perkin Elmer Corp., The
Peterson Builders, Inc.
Petroleos Del Mediterraneo SA
Petrophil Corp.
Pevarnik Brothers, Inc.
Pfizer, Inc.
Phelps, Inc.
Philadelphia Ship Maintenance Co.
Philip Morris Companies, Inc.
Phoenix International
Phrobis, Ltd.
Physics International Co.
Picker International, Inc.
Pine Bluff Sand & Gravel Co.
Pines R.H. Corp., The
Pioneer & Co.
Piqua Engineering, Inc.
Planning Research Corp.
Planning Systems, Inc.
Plastics Research Corp.
Pneumo Abex Corp.
Potomac Electric Power Co.
Power Conversion, Inc.
Price Ciri Construction, JV
Pride Refining Co.
Prism Construction Co.
Procter & Gamble Co., The
Propper International, Inc.
Public Service Co. of New Mexico
Puerto Rico Sun Oil Co., Inc.
Puget Sound Tug & Barge Co.
Pulse, Inc.
Pum Yang Construction Co., Ltd.
Purdue University
Purdy Corp.
Purvis Systems, Inc.
Q E D Systems, Inc.
Quaker Oats Co, The
Quality Apparel Mfg.
Quest Research Corp.
Questech, Inc.
Quintron Corp.
R & D Associates
R & D Constructors, Inc. (Michigan)
R G & B Contractors, Inc.
RC Construction Co., Inc.
RCA Corp.
RCA Global Communications, Inc.
RCR General Contractors, Inc.
RDL, Inc.
RJO Enterprises, Inc.
RJR Nabisco, Inc.
Raab Karcher GMBH
Racal Dana Instruments, Inc.
Radian Corp.
Radian, Inc.
Rail Co.
Rand Corp, The
Rauh GMBH
Ravenna Arsenal, Inc.
Raymond Engineering, Inc.
Rayovac Corp.
Raytheon Co.
Raytheon Service Co.
Raytheon Technical Assistance Co.
Raytheon Mediterranean Systems Co.
Recon Optical, Inc.
Redondo Construction Corp.
Reeves Brothers, Inc.
Refinery Associates, Inc.
Reflectone, Inc.
Research Triangle Institute
Resource Consultants, Inc.
Rexnord, Inc.
Rexon Technology Corp.
Reynolds, H.G. Co., Inc.
Reynolds, R. J. Tobacco Co.
Rice, James Ed
Right Away Foods Corp.
Riverside Research Institute
Roberts, J.R. Corp.
Rockwell International Corp.
Roebbelen Engineering, Inc.
Rohr Industries, Inc.
Rolls Royce, Inc.
Rosemount, Inc.
Rossenblatt M. & Son, Inc.
Royal Norwegian Naval Material
Royal Ordnance Ammunition, Ltd.
Rubber Crafters of West Virginia
Rutter Rex, J.H. Mfg. Co.
Ryan Walsh Stevedoring Co.
SCI Technology, Inc.
SKF Industries, Inc.
SMS Data Products Group, Inc.
SRI International
SRS Technologies
Sachs Freeman Associates, Inc.
Sacramento Municipal Utility District
San Diego Community College
San Diego Diversified Builders
Sanders Associates, Inc.
Sargent Fletcher Co.
Saudi Maintenance Co. Siyanco
Scallop Corp.
Schafer, W.J. Associates, Inc.
Schneider, Inc.
Science Applications Intnl. Corp.
Scientific Atlanta, Inc.
Sea Land Service, Inc.
Sechan Electronics, Inc.
Selm Servizi Elettrici Montedi
Salma Apparel Corp.
Semcor Corp.
Sequa Corp.
Serv Air, Inc.
Service Engineering Co., Inc.
Sharp Construction Co., Inc.
Shelf Stable Foods, Inc., Texas
Shell Co. of the Islands
Shell Oil Co.
Shin Il Engineering, Ltd.
Shindongah Construction Co., Ltd.
Siemens AG
Siemens Capital Corp.
Sierracin Corp.
Sikorsky Support Services, Inc.
Simmonds Precision Products
Simtec, Inc.
Simula, Inc.
Singer Co., The
Sippican, Inc.
Slocomb, J.T. Co.
Softech, Inc.
Solar Flame, Inc.
Soltek of San Diego
Somague Frais, JV
Sonalysts, Inc.
Sonicraft, Inc.
Sooner Defense of Florida, Inc.
South Carolina Electric & Gas Co.
Southern Air Transport, Inc.
Southern California Edison Co.
Southern California Gas Co.
Southern Packaging & Storage Co.
Southern Research Institute
Southwest Marine, Inc.
Southwest Marine, San Francisco
Southwest Mobile Systems Corp.
Southwest Research Institute
Southwestern Bell Telephone Co.
Space Applications Corp.
Space Communication Co.
Space Data Corp.
Sparta, Inc.
Sparton Corp.
Sparton Electronics Florida
Spears Assóciates, Inc.
Speegle Construction, Inc.
Sperry Corp.
Staatsbauamt
Standard Oil Co.
Standard Products Co., The
Stanford Leland Jr. University
Stanford Telecommunications
Star Dynamics, Inc.
State Paving & The Brewer Co. of Florida, JV
Stearns Catalytic World Corp.
Stearns Roger, Inc.
Stemaco Products, Inc.
Sterling Federal Systems, Inc.
Steuart Petroleum Co.
Stewart-Warner Corp.
Still GMBH
Stone & Webster Engineering
Stone & Webster, Inc.
Stroh, Harry A. Associates, Inc.
Stumpf & Mueller
Stuyvesant Dredging Co.

Sun Microsystems, Inc.
Sun Refining & Marketing Co.
Sundstrand Corp.
Sundstrand Data Control, Inc.
Sundt Corp.
Sundt Parsons Actus Corp., JV
Sunkyong, Ltd.
Superior Engineering Electronic Co.
Support Systems Associates, Inc.
Supreme Beef Processors, Inc.
Sverdrup Technology, Inc.
Swedlow, Inc.
Swiftships, Inc.
Syntex Laboratories, Inc.
Syscon Corp.
System Development Corp.
System Planning Corp.
Systems Engineering Associates
Systems Management America Corp.
Systems Research & Applications
Systems Research Laboratories, Inc.
Systron Donner Corp.
TBG, Inc.
TRW, Inc.
Tacoma Boatbuilding Co.
Tadiran Electronic Industries
Talley Defense Systems, Inc.
Tan-Tex Industries Corp.
Target Corp.
Taylor Group, Inc.
Taywood, Berg, Riedel, JV
Technical Systems, Inc.
Technicon Data Systems Corp.
Technology Applications
Technology/Scientific Services
Tecom, Inc.
Tektronix, Inc.
Teledyne, Inc.
Teledyne Industries, Inc.
Telephonics Corp.
Telos Corp.
Templeton Construction Co.
Tennessee Apparel Corp.
Tennessee State Technical Institute at Memphis
Tennier Industries, Inc.
Terra Contracting Co., Inc.
Tesoro Alaska Petroleum Co.
Tetra Tech, Inc.
Texaco, Inc.
Texas Instruments, Inc.
Texas Power & Light Co.
Texcel International, Inc.
Texstar, Inc.
Textron, Inc.
Therm, Inc.
Thomas & Marker Construction Co.
Thompson, J. Walter Co.
Todd Pacific Shipyards Corp.
Todd Shipyards Corp.
Tohoku Denryoku K K
Tokyo Denryoku K K
Torrington Co., The
Tower Air, Inc.
Tracor Applied Sciences, Inc.
Tracor, Inc.
Tracor Instruments Austin, Inc.
Tracor Marine, Inc.
Tracor MBA
Trans World Airlines, Inc.
Transtechnology Corp.
Transway International
Trataros Industries, Ltd.
Treadwell Corp.
Trepte Construction Co.
Triad Microsystems, Inc.
Tymco, Inc.
Ultrasystems, Inc.
Ultrasystems Western Constructors
Unidynamics Corp.
Unified Industries, Inc.
Union Carbide Corp.
Union Corp.
Union Explosivos Rio Tinto SA
Uniroyal, Inc.
Unisys Corp.
United Air Lines, Inc.
United Airlines Services Corp.
United Engineers & Constructors
United States Lines, Inc.
United Technologies Corp.
United Telecontrol Electronics, Inc.
Universal Energy Systems, Inc.
University of Arizona
University of California, Berkeley
University of California, San Diego
University of Dayton
University of Illinois
University of Maryland
University of New Mexico
University of Southern California
University of Texas System
University of Washington
Upjohn Co., The
Urdan Industries USA, Inc.
Utah Power & Light Co.
Utah State University
VSE Corp.
Vac-Hyd Corp.
Valdez Tankship
Valentec Dayron, Inc.
Valleydale Packers, Inc.
Vanco Industries, Inc.
Varian Associates, Inc.
Varo, Inc.
Veda International, Inc.
Velcon Filters, Inc.
Ver Val Enterprises, Inc.
Verac, Inc.
Vickers, Inc.
Viereck Co., Inc., The
Vinnell Corp.
Vitro Corp.
Vivian Tankships
Wang Laboratories, Inc.
Warehouses Services Agency
Waterman Steamship Corp.
Watkins-Johnson Co.
Welco Enterprises, Inc.
Wells Marine, Inc.
West Coast Construction, Inc.
Western Petroleum Co.
Western States Construction Co.
Western Union International, Inc.
Westinghouse Electric Corp.
Westminster Co., Inc.
Weston, Roy F., Inc.
Whitesell Green, Inc.
Whittaker Corp.
Wickes Co.'s, Inc.
Willard Co., The
Willbros Butler Engineers, Inc.
Williams International Corp.
Williams Steel Industries, Inc.
Winfield Mfg. Co., Inc.
Wood-Hopkins Contracting Co.
Woods Hole Oceanographic Institute
Woodville Polymer Engineering
Woodward Governor Co.
World Airways, Inc.
Wright Contracting, Inc.
Wylie, C. E. Construction Co.
Xerox Corp.
Yonkers Contracting Co., Inc.
You One Construction Co., Ltd.
Young & Rubicam, Inc.
Zachry, H.B. Co. International
Zantop International Airlines, Inc.
Zaroco, Inc.
Zenith Data Systems Corp.
Zenith Electronics Corp.

Linda Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

December 17, 1987.

[FR Doc. 87-29301 Filed 12-21-87; 8:45 am]

BILLING CODE 3801-01-M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes the numerous miscellaneous revisions consolidated in the Transmittal Letter for issue 25 of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations, see 39 CFR 111.1.

Most of the revisions are minor, editorial, or clarifying. Substantive changes, such as the new regulations on drug paraphernalia and ballistic knives, the revised regulations on the minimum ZIP + 4 coding requirement, and the revised merchandise return service regulations, have previously been published in the **Federal Register.**

DATE: Effective Date: December 20, 1987.

FOR FURTHER INFORMATION CONTACT: Paul J. Kemp, (202) 268-2960.

SUPPLEMENTARY INFORMATION: The Domestic Mail Manual has been amended by the publication of a transmittal letter for issue 25, dated December 20, 1987. The text of all published changes is filed with the Director of the Federal Register.

Subscribers to the Domestic Mail Manual receive these amendments automatically from the Government Printing Office.

The following excerpt from the Summary of Changes section of the transmittal letter for issue 25 covers the minor changes not previously described in interim or final rules published in the **Federal Register.**

Note.—This is a complete issue of the DMM, including changes announced in the Postal Bulletin through October 29, 1987. All future issues of the DMM will also be complete issues. This issue includes an updated index and a new Glossary of Forms that lists every form mentioned in the DMM.

Summary of Changes

1. Section 122.15. *Return Address,* and 912.44b. *How to Mail* (Certified Mail) are revised to more specifically state that the Postal Service requires that pieces of Express Mail and certified mail must bear the sender's return address if the customer requests a return receipt (PB 21641, 10–15–87).

2. Exhibits 122.63*b, e, f, m, n, o, p, q,* and *r,* in section 122.63. *Assignment of ZIP Codes,* are revised to include updated ZIP Code listings as shown in *Postal Bulletin* 21641, 10–15–87; PB 21642, 10–22–87; PB 21643, 10–29–87.

3. * * *

4. Section 124.63g, *Live Animals,* is revised to allow shipments of pigeons by Express Mail in specifically approved containers. No other warm blooded animals are mailable without specific authorization by the Office of Classification and Rates Administration.

5. Exhibit 125.2. *Conditions Applied to Mail Addressed to Military Post Offices Overseas,* (Conditions Table) is no longer published in the DMM. The *Conditions Table* will be published in its entirety approximately twice a year, with periodic updates, in the *Postal Bulletin.*

6. Section 131, is given a new heading, *Responsibilities,* and is revised to reflect that the Director, Office of Classification and Rates Administration delegated only to the General Managers of the Rates and Classification Centers (RCCs) the authority to decide customer appeals of field mail classification decisions and to clarify that other field managers must refer requests for exceptions to mail preparation or classification requirements to the Rates and Classification Center (PB 21640, 10–8–87).

7. Section 136, *Mixed Classes of Mail,* is revised by the addition of new section 136.9, *Priority Mail Drop Shipment Service,* to describe this new optional service to expedite the movement of First-, second-, third-, and fourth-class mail from one domestic postal facility to another through the Priority Mail network (PB 21640, 10–8–87).

8. Section 137. *Official Mail,* is revised by the addition of new section 137.272b(5), *Mail of the U.S. Postal Service,* which provides specific guidance on official mail of the Postal Service. Also, the exhibits of absentee balloting materials are changed to show in the indicium, "39 USC 3406" reflecting codification in Title 39, United States Code, of the August 1986 consolidation of the Federal Voting Assistance Act of 1955 and the Overseas Citizens Voting Rights Act of 1975.

9. Section 137.15, *Forwarding Mailing Records for Franked Mail,* is revised to implement the new Franked Mail Sampling System—Outside Washington Subsystem, which becomes effective January 16, 1988. The new system is designed to improve statistical revenue estimates for countable, franked mail and non-prepaid special services which originate from, or are sent to, district or state offices of Members of Congress or other authorized users of the franking privilege.

10. Section 144.1. *Postage Meters,* is revised by the addition of new section 144.14, *Possession,* to require anyone who has a postage meter to have both a valid postage meter license and a rental agreement with the meter manufacturer.

11. Section 144.49. *Ad Plates,* lists postal markings (endorsements) that are permissible for display in the ad plate area of metered mail pieces. Section 144.492 is revised to include endorsements for "ZIP + 4" and "ZIP + 4 Presort" (PB 21643, 10–29–87).

12. In section 159.4. *Dead Mail,* section 159.42, *Insured and COD Matter,* is revised to reflect that postal facilities handling undeliverable mail should no longer hold third-class single-piece rate mail, fourth-class mail, and articles found loose in the mail, but should send dead letters to the dead letter daily and dead parcels to the dead parcel branch weekly. Section 159.5. *Dead Letter Branches and Service Areas,* is revised to reflect changes in regional dead letter service areas (PB 21640, 10–8–87). Section 159.52. *Dead Parcel Branches,* is also revised to reflect changes in service areas.

13. Section 296. *Claims Procedures,* is revised to reflect that an Express Mail refund claim may be filed at any post office.

14. * * *

15. Sections 323, 366, 368 are revised and new section 365.5. *Residual Pieces,* is added to more clearly define residual pieces of Presorted First-Class mailings and ZIP + 4 First-Class mailings and to clarify which postage rates are chargeable for residual pieces (PB 21643, 10–29–87).

16. Sections 467, 667, and 767, contain second- third- and fourth-class mail pallet regulations. These sections are revised primarily to reflect adoption of a new national pallet application and to make the regulations consistent from class to class, where appropriate. The only major changes that affect mail preparation are:

a. An increase in the maximum weight for fourth-class packages; and,

b. The specification of strict criteria for the placement and print size of extraneous information on pallet labels. Specific sections that are revised are: 467.2, 467.3; 667.1, 667.66, 667.7, 667.8: 767.5, and 767.6.

17. In Chapter 4. *Second-Class Mail,* sections 411.34, 411.333, 411.354, and 468.2c are revised to clarify eligibility for the Intra-SCF rate. The Intra-SCF rate can be applied to addressed pieces that are not mailed at in-county rates and are mailed and delivered within the SCF of mailing (PB 21640, 10–8–87).

18. Section 643.1 is revised and retitled. *Revocation for Cause.* Section 643.2 is deleted and 643.3. *Revocation for Nonuse,* is renumbered. 643.2. These changes are made to eliminate repetition and to clarify that the General Manager of the Rates and Classification Center (RCC) is authorized to revoke special bulk third-class rate privileges for cause, with provision for appeal through the RCC to the Director. Office of Classification and Rates Administration. USPS Headquarters. Washington. DC 20260–5360 (PB 21635. 9–3–87).

19. In section 911. *Registered Mail,* section 911.31a is revised to specifically prohibit acceptance of envelopes made to Tyvek, plastic, and glossy surfaces in the domestic registered mail service.

20. * * *

21. In section 941. *Money Orders,* sections 941.141 and .142 are revised to direct carriers to instruct customers to retain the receipt part of Form 6387. *Rural Money Order Transaction.*

22. The following sections have been revised and in some instances restructured for clarity and to standardize format and terminology. No substantive changes were intended to be made.

915, Special Delivery
916, Special Handling
931, Certificates of Mailing
932, Return Receipts
933, Restricted Delivery
941.1, Money Orders
950–952, Alternate Delivery Services

23. Minor, non-substantive changes have also been made to 122.16d. 123.617,

123.65. 133.1, 137.275f(1), 141.13, 144.62, 621.1*b*, 911.521*b* (3), 917.52, 917.56c, 942.2 942.13, 942.2, 953.3 and 953.4.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. In consideration of the foregoing, the table at the end of § 111.3(e) is amended by adding at the end thereof the following:

§ 111.3 Amendments to the Domestic Mail Manual

* * * * *

Transmittal letter for issue	Dated	Federal Register Publication
25	Dec. 20, 1987	52 FR—

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87–29235 Filed 12–21–87; 8:45 am]

BILLING CODE 7710–12–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 435 and 436

[BERC–304–CN]

Medicaid Program; Coverage of Qualified Pregnant Women and Children and Newborn Children; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule that incorporated in the Medicaid regulations several mandatory eligibility groups of qualified pregnant women and certain children under 5 and newborn children of Medicaid-eligible women, published in the **Federal Register** of Monday, November 9, 1987 (52 FR 43063).

FOR FURTHER INFORMATION CONTACT: Richard Strauss, 301–594–6529.

SUPPLEMENTARY INFORMATION: The following corrections are made in FR Document 87–25763 appearing on page 43063 in the issue of November 9, 1987:

§ 435.3 [Corrected]

1. On page 43071, in § 435.3, paragraph (a)—

a. The statutory citation "1902(a) (second paragraph after (44))" is corrected to "1902(a) (second paragraph after (47))";

b. In the statutory citation "1902(j)", the word "progran" is corrected to "program";

c. In the statutory citation "1905(a)", the numeral "(18)" is corrected to "(21)".

§ 435.301 [Corrected]

2. On page 43072, in § 435.301, paragraph (b)(1)(iii), the cross-reference to "§ 435.119" is corrected to "§ 435.117".

§ 436.2 [Corrected]

3. On page 43072, in § 436.2—

a. The statutory citation "1902(a)(a) (third paragraph after 37)" is corrected to "1902(a) (second paragraph after (47))";

b. The statutory citation "1905(a) (clause following (18))" is corrected to "1905(a) (clause following (21))";

c. The statutory citation "412(e)(5) Of Immigration and Nationality Act Eligibility of certain refugees" is corrected to "412(e)(5) of Immigration and Nationality Act—Eligibility of certain refugees".

d. The statutory citation "Pub. L. 93–272" is corrected to "Pub. L. 96–272" and "Veterans' " is corrected to "Veterans".

§ 436.114 [Corrected]

4. On page 43072, in § 436.114, paragraph (d), line 5, "to" is corrected to "is".

§ 436.124 [Corrected]

5. On page 43073, in § 436.124, paragraph (a), "child s" is corrected to "child's".

(Catalog of Federal Domestic Assistance Program No. 13.714—Medical Assistance Program)

Dated: December 16, 1987.

James F. Trickett,

Deputy Assistant Secretary for Administrative and Management Services.

[FR Doc. 87–29271 Filed 12–21–87; 8:45 am]

BILLING CODE 4120–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86–219; RM–5252]

Radio Broadcasting Services; Bella Vista, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, in response to a petition filed by JEM Broadcasting Company, licensee of Station KJEM(AM) Bentonville-Bella Vista, AR substitutes FM Channel 293C2 for Channel 293A at Bella Vista, AR, to provide that community with a first wide coverage FM service. Although Channel 293A was originally allotted to Bella Vista in MM Docket No. 84–231, petitioner provided engineering data to reveal that the channel could be upgraded to Class C2 status. With this action, the proceeding is terminated.

DATES: *Effective Date:* January 29, 1988. The window period for filing applications for Channel 293C2 at Bella Vista will be announced in a future Public Notice to be issued by the Audio Services Division, Mass Media Bureau.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–219, adopted November 25, 1987, and released December 16, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Bella Vista, Arkansas by removing Channel 293A and adding Channel 293C2.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–29276 Filed 12–21–87; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 87-227; RM-5775]

Radio Broadcasting Services; Richfield, UT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Class C Channel 248 to Richfield, Utah, as that community's second local FM service, at the request of David I. Hansen. With this action, this proceeding is terminated.

DATES: *Effective* January 29, 1988. The window period for filing applications will open on February 1, 1988, and close on March 2, 1988.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-227, adoped November 25, 1987, and released December 16, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Utah by adding Channel 248 to Richfield.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-29277 Filed 12-21-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 80

[PR Docket No. 87-132; FCC 87-368]

Maritime Services; Rule Amendment Concerning Applications for VHF Public Coast Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The new rule requires licensees of existing public coast stations to make a showing of need for additional frequencies if the coverage areas of existing and proposed service would overlap by 70% or more. The purpose of the rule is to clarify application processing requirements and to ensure frequencies are not assigned without adequate justification.

EFFECTIVE DATE: February 1, 1988.

FOR FURTHER INFORMATION CONTACT: Robert P. Deyoung, (202) 632-7175.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, adopted November 24, 1987, and released December 11, 1987. The full text of the Commission's decision including the rule change is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The full text of this decision including the rule change may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street NW., Suite 140 Washington, DC 20037.

Summary of Report and Order

1. The Commission has amended the rules to require licensees of existing VHF public coast stations to make a showing of need for additional frequencies if existing and proposed service areas would overlap by 70% or more. The purpose of the rule is to clarify application processing requirements and to ensure frequencies are not assigned without adequate justification.

2. We hereby certify pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, that this Rule will not have a significant economic impact on a substantial number of small entities. The Rule has been applied by administrative practice and has been found to require no increase in the information from a public coast station applicant for new or additional facilities.

3. The rule adopted herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

4. This Report and Order is issued under the authority of 47 U.S.C. 154(i) and 303(g) and (r).

5. A copy of this Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 80

Coast stations, Public correspondence, Applications.

Federal Communications Commission.

William J. Tricarico,

Secretary.

New Rules

Part 80 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for 47 CFR Part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

2. In § 80.371, paragraph (c) is revised to read as follows:

§ 80.371 Public correspondence frequencies.

* * * * *

(c) *Working frequencies in the 156-162 MHz band.* Initial grants will be limited to one working frequency. An additional frequency may be assigned when the assigned working frequency is also used by a foreign station near enough to result in harmful radio interference by simultaneous operation or when the channel occupancy of the assigned frequency or frequencies exceeds 40 percent during its busiest hours of operation. An application for assignment of an additional working frequency based on channel occupancy must be accompanied by a factual showing that for any 4 days within a 10-consecutive-day period of station operation in each of 2 months immediately prior to the filing of the application, the assigned frequency or frequencies was in average daily use for exchanging communications at least 40 percent of the 3 busiest hours of each day, of which not more the half of the use time was waiting or setup time. For purposes of this paragraph, an application for a frequency which overlaps by 70 percent or more the coverage area of a frequency already authorized for use by a station licensed to the same applicant or substantially the same applicant will be considered an application for an additional frequency.

[FR Doc. 87-29279 Filed 12-21-87; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1011 and 1152

[Ex Parte No. 274 (Sub-No. 16)]

Exemption of Rail Line Abandonments or Discontinuances—Offers of Financial Assistance

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission adopts final rules modifying 49 CFR 1152.27 and 1152.50 to enable the filing of offers of financial assistance to subsidize or acquire rail lines subject to an abandonment or discontinuance exemption authorized by the Commission. The rules generally incorporate the financial assistance procedures of 49 U.S.C. 10905 in the class exemption or individual petition for exemption process. The Commission also modifies its rules, codified at 49 CFR 1011, to specifically delegate to the Director of the Office of Proceedings authority to partially revoke an exemption to the extent it applies to 49 U.S.C. 10905. The rules are set forth below.

EFFECTIVE DATE: The rules are effective January 21, 1988.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245, [TDD for hearing impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357/4359 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275–1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

The rule modifications will not have a significant economic impact on a substantial number of small entities, but may have a positive effect on a few small carriers by enabling them to enter new markets more easily.

This action will not significantly affect either the quality of the human environment or energy conservation.

List of Subjects

49 CFR Part 1011

Administrative practice and procedure; Authority delegations.

49 CFR Part 1152

Administrative practice and procedure; Railroads.

Decided: December 14, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

Title 49, Subtitle B, Chapter X, Parts 1011 and 1152 of the Code of Federal Regulations are amended as follows:

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

1. The authority citation for 49 CFR Part 1011 continues to read as follows:

Authority: 49 U.S.C. 10301, 10302, 10304, 10305, 10321; 31 U.S.C. 9701; 5 U.S.C. 553.

2. Section 1011.2 is amended by revising paragraph (a)(8) to read as follows:

§ 1011.2 The Commission.

(a) * * *

(8) All appeals of initial decisions determining (i) whether to designate protested abandonment proceedings for investigation (including action on requests for oral hearing), (ii) whether offers of financial assistance satisfy the standards of 49 U.S.C. 10905(d), for purposes of negotiations or in exemption proceedings for purpose of partial revocation and negotiations, (iii) whether partially to revoke or to reopen abandonment exemptions authorized, respectively, under 49 U.S.C. 10505 and 49 CFR 1152 Subpart F for the purpose of imposing public use conditions under the criteria in 49 CFR 1152.28, and (iv) the applicability and administration of the Trials Act (16 U.S.C. 1247 (d)) in abandonment proceedings under 49 U.S.C. 10903–04 (and abandonment exemption proceedings) as set forth in 49 CFR 1011.8(c) (4) and (5). Appeals on these matters must be filed within 10 days of the date the action is taken, and responses must be filed within 10 days thereafter.

* * * * *

3. Section 1011.8 is amended by revising paragraph (c)(2) to read as follows:

§ 1011.8 Delegation of authority by the Interstate Commerce Commission to specific bureaus and offices of the Commission.

* * * * *

(c) * * *

(2) Whether offers of financial assistance satisfy the statutory standards of 49 U.S.C. 10905(d), for purposes of negotiations or in exemption proceedings for purposes of partial revocation and negotiations.

* * * * *

PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903

4. The authority citation for 49 CFR Part 1152 continues to read as follows:

Authority: 5 U.S.C. 553, 559, and 704; 11 U.S.C. 1170; 16 U.S.C. 1247(d); and 49 U.S.C. 10321, 10362, 10505, and 10903, *et seq.*

5. Section 1152.25 is amended by revising paragraph (e)(1) to read as follows:

§ 1152.25 Participation in abandonment or discontinuance proceedings.

* * * * *

(e) *Appellate procedures*—(1) *Scope of rule.* Except as specifically indicated below, these appellate procedures are to be followed in abandonment and discontinuance proceedings in lieu of the general procedures at 49 CFR Part 1115. Appeals of initial decisions of the Director of the Office of Proceedings determining (i) whether to designate protested abandonment proceedings for investigation (including action on requests for oral hearings); (ii) whether offers of financial assistance satisfy the standards of 49 U.S.C. 10905(d) for purposes of negotiations or in exemption proceedings for purposes of partial revocation and negotiations; (iii) whether partially to revoke or to reopen abandonment exemptions authorized, respectively, under 49 U.S.C. 10505 and 49 CFR Part 1152 Subpart F for the purpose of imposing public use conditions under the criteria in 49 CFR 1152.28; and (iv) the applicability and administration of the Trails Act (16 U.S.C. 1247(d)) in abandonment proceedings under 49 U.S.C. 10903–04 (and abandonment exemption proceedings) as set forth in 49 CFR 1011.8(c) (4) and (5) will be acted upon by the entire Commission pursuant to the rule set forth at 49 CFR 1011.2(a)(8). An original and 10 copies of all appeals, and replies to appeals, under this section should be filed with the Commission.

* * * * *

6. Section 1152.27 is amended by revising paragraphs (a) through (g), paragraph (h)(7), paragraph (j), and paragraphs (l) (1) and (2) to read as follows:

§ 1152.27 Financial assistance procedures.

(a) *Provision of information.* An applicant must provide promptly upon

request to a party considering an offer of financial assistance to continue existing rail service, and concurrently to the Commission, the following:

(1) (i) *In an application proceeding,* an estimate of the annual subsidy and minimum purchase price required to keep the line or a portion of the line in operation;

(ii) *In an exemption proceeding,* either an estimate of the annual subsidy or the minimum purchase price, depending upon the type of financial assistance indicated in the potential offeror's formal expression of intent submitted under paragraph (c)(2)(i) of this section;

(2) Its most recent reports on the physical condition of the involved line; and

(3) Traffic, revenue, and other data necessary to determine the amount of annual financial assistance that would be required to continue rail transportation over that part of the railroad line. In an exemption proceeding, the data to be provided must at a minimum include the carrier's estimate of the net liquidation value of the line, with supporting data reflecting available real estate appraisals, assessments of the quality and quantity of track materials in a line, and removal cost estimates (including the cost of transporting removed materials to point of sale or point of storage for relay use), and, if an offer of subsidy is contemplated, an estimate of the cost of rehabilitating the line to Federal Railroad Administration Class I Safety Standards (49 CFR Part 213).

(b) *Federal Register notice.* (1) *Abandonment and discontinuance applications.* If the Commission finds that the present or future public convenience and necessity permit or require the proposed abandonment or discontinuance, the Commission will publish these findings in the **Federal Register** concurrently with the service of the decision. The **Federal Register** publication will serve as notice to persons intending to offer financial assistance to assure continued rail service under 49 U.S.C. 10905 and these regulations as they relate to abandonment and discontinuance applications.

(2) *Exemption proceedings.* If the Commission exempts a proposed abandonment of a line of railroad from the prior approval requirements of 49 U.S.C. 10903, *et seq.,* the Commission will publish notice of this action in the **Federal Register.** The **Federal Register** publication will serve as notice to persons with a potential interest in providing financial assistance to assure continued rail service under 49 U.S.C. 10905 and these regulations as they relate to exempt abandonments and discontinuances.

(c) *Submission of financial assistance offer—(1) Abandonment and discontinuance applications.* (i) *Service and filing.* An offeror must serve its offer of assistance on the carrier owning and operating the line and all parties to the abandonment or discontinuance proceeding. The offer must be filed concurrently with the Secretary, Interstate Commerce Commission, Washington, DC 20423.

(A) An offer may be filed and served at any time after the filing of the abandonment or discontinuance application. Once notice of the abandonment findings is published in the **Federal Register,** however, the Commission must be notified that an offer has previously been submitted.

(B) An offer, or notification of a previously filed offer, must be filed and served no later than 10 days after the **Federal Register** publication described in paragraph (b) of this section. This filing and service is subject to the requirements of 49 CFR 1152.25 (d)(1), (d)(2), and (d)(4).

(C) If, after a *bona fide* request, applicant has failed to provide a potential offeror promptly with the information required under paragraph (a) of this section and if that information is not contained in the application, the Commission will entertain petitions to toll the 10-day period for submitting offers of financial assistance under paragraph (c)(1) of this section. Petitions must be filed with the Commission within 5 days after publication in the **Federal Register** (described in paragraph (b) of this section). Petitions should include copies of the prior written request for information or an accurate outline of the specific information that was orally requested. Replies to these petitions must be filed within 10 days after the publication. These petitions and replies must be filed on or before their actual due date under 49 CFR 1152.25(d)(4). The Commission will issue a decision on petitions within 15 days after publication.

(ii) *Contents of offer.* The offeror shall set forth its offer in detail. The offer must:

(A) Identify the line, or the portion of the line, in question;

(B) Demonstrate that the offeror is financially responsible; that is, that it has or within a reasonable time will have the financial resources to fulfill proposed contractual obligations;

(C) Explain the disparity between the offeror's purchase price or subsidy if it is less than the carrier's estimate under paragraph (a)(1) of this section, and explain how the offer of subsidy or purchase is calculated.

(2) *Exemption proceedings.* (i) *Expression of intent to file offer.* Persons with a potential interest in providing financial assistance must no later than 10 days after the **Federal Register** publication described in paragraph (b)(2) of this section submit to the carrier and the Commission a formal expression of their intent to file an offer of financial assistance, indicating the type of financial assistance they wish to provide (*i.e.,* subsidy or purchase). Such submissions are subject to the filing requirements of § 1152.25(d)(1) through (d)(3). Submission of a formal expression of intent under this subsection will automatically stay the effective date either of the decision granting an individual exemption or the notice of exemption under the class exemption for 40 days (normally, this will be 10 days beyond the date stated in the **Federal Register** publication).

(ii) *Service and filing.* An offeror must serve its offer of assistance on the carrier that instituted the exempt filing as well as all other parties to the proceeding. The offer must be filed concurrently with the Secretary, Interstate Commerce Commission, Washington, DC 20423.

(A) An offer may be filed and served at any time after the filing of the exemption petition or notice of exemption. Once notice of exemption is published in the **Federal Register,** however, the Commission must be notified that an offer has previously been submitted.

(B) An offer, or notification of a previously filed offer, must be filed and served no later than 30 days after the **Federal Register** publication described in paragraph (b)(2) of this section. This filing and service is subject to the requirements of 49 CFR 1152.25 (d)(1), (d)(2), and (d)(4).

(C) If, after a *bona fide* request, applicant has failed to provide a potential offeror promptly with the information required under paragraph (a) of this section and if that information is not contained in the exemption petition or notice of exemption, the Commission will entertain petitions to toll the 30-day period for submitting offers of financial assistance under paragraph (c)(2) of this section. Petitions must be filed with the Commission within 25 days after publication in the **Federal Register** (described in paragraph (b)(2) of this section). Petitions should include copies of the prior written request for information or an accurate outline of the specific information that was orally requested. Replies to these

petitions must be filed within 30 days after the publication. These petitions and replies must be filed on or before their actual due date under 49 CFR 1152.25(d)(4). The Commission will issue a decision on petitions to toll the offer period within 35 days after publication.

(D) Upon receipt of a formal expression of intent to file an offer under paragraph (c)(2)(i) of this section, applicant may advise the Commission and the potential offeror that additional time is needed to develop the information required under paragraph (a) of this section. Applicant shall expressly indicate the amount of time it considers necessary (not to exceed 60 days) to develop and submit the required information to the potential offeror. For the duration of the time period so indicated by applicant the 30-day period for submitting offers of financial assistance under paragraph (c)(2) of this section shall be tolled without formal Commission action.

(iii) *Contents of offer.* The offeror shall set forth its offer in detail. The offer must meet the requirements of paragraph (c)(1)(ii).

(d) *Access to documents.* Upon receipt by the carrier of a written comment under § 1152.25 or a formal expression of intent under paragraph (c)(2)(i) of this section indicating an intent to offer financial assistance or upon receipt by the carrier of an offer of financial assistance, whichever occurs earlier, the carrier must make available to that party or offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit 1 (§ 1152.36) or, if an exemption proceeding, those documents that would have been used in preparing Exhibit 1 had an abandonment or discontinuance application been filed or whatever records, reports, and other data in the possession of the carrier seeking the exemption which provide data comparable to that which would have been utilized in preparing an Exhibit 1. These documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

(e) *Review of offers.* (1) *Abandonment and discontinuance applications.* The Commission will review each offer submitted to determine if the offeror is a financially responsible person offering assistance which is likely to cover: (1) The difference between the revenues attributable to the line and the avoidable cost of providing freight service on the line plus a reasonable return on the value of the line, or (ii) the acquisition cost of all or any portion of the line. If these criteria are met, the Commission will issue a decision postponing the issuance of a certificate of abandonment or, if a certificate has been issued, postponing the effective date of the certificate. This decision will be issued within 15 days of the **Federal Register** publication described in paragraph (b) of this section (or five days after the offer is filed if the time for filing has been tolled under paragraph (c)(1)(i)(C) of this section). Under the delegation of authority at § 1011.8, the Director of the Office of Proceedings will make the initial determination whether offers of financial assistance satisfy the standards of 49 U.S.C. 10905(d) for purposes of negotiations. Appeals of initial decisions determining whether offers of financial assistance satisfy the standards of 49 U.S.C. 10905(d) for purposes of negotiations will be acted upon by the entire Commission pursuant to the rule set forth at 49 CFR 1011.2(a)(8).

(2) *Exemption proceedings.* The Commission will review each offer submitted to determine if the offeror is a financially responsible person offering assistance which is likely to cover: (i) The difference between the revenues attributable to the line and the avoidable cost of providing freight service on the line plus a reasonable return on the value of the line; or (ii) the acquisition cost of all or any portion of the line. If these criteria are met, the Commission will postpone the effective date either of the decision granting an individual exemption or the notice of exemption under the class exemption and partially revoke the exemption or (in the case of a class exemption) the notice of exemption to the extent it applies to 49 U.S.C. 10905. The decision to postpone and partially revoke will be issued within 35 days of the **Federal Register** publication described in paragraph (b) of this section (or five days after the offer is filed if the time for filing has been tolled under paragraph (c)(2)(ii)(C) or (c)(2)(ii)(D) of this section). Under the delegation of authority at § 1011.8, the Director of the Office of Proceedings will make the initial determination whether offers of financial assistance satisfy the standards of 49 U.S.C. 10905(d) for purposes of partial revocation and negotiations. Appeals of initial decisions determinig whether offers of financial assistance satisfy the standards of 49 U.S.C. 10905(d) for purposes of partial revocation and negotiations will be acted upon by the entire Commission pursuant to the rule set forth at 49 CFR 1011.2(a)(8).

(f) *Agreement on financial assistance.* (1) If the carrier and a person offering financial assistance enter into a subsidy agreement designed to provide for continued rail service, the Commission will postpone the issuance of a certificate authorizing the abandonment or discontinuance. If a certificate, decision granting an individual exemption, or notice of exemption has been issued, the Commission will postpone the effective date of the certificate, decision, or notice of exemption. The postponement will be for as long as the subsidy agreement is in effect.

(2) If the carrier and a person offering to purchase a line enter into a purchase agreement which will result in continued rail service, the Commission will approve the transaction and dismiss the application for abandonment or discontinuance, or the petition for exemption or notice of exemption. Commission approval is not required under 49 U.S.C. 10901 or 11343 for the parties to consummate the transaction or for the purchaser to institute service and operate as a railroad subject to 49 U.S.C. 10501(a).

(g) *Failure to reach agreement on financial assistance.* (1) If the carrier and a financially responsible person fail to agree on the amount or terms of subsidy or purchase, either party may request the Commission to establish the conditions and amount of compensation. This request must be filed with the Commission within 30 days after the offer is made and served concurrently on all parties to the proceeding.

(2) If no agreement is reached within 30 days after the offer of purchase or subsidy is made, and no request is made to the Commission to set the conditions and amount of compensation under paragraph (g)(1) of this section, the Commission will serve either (i) a certificate authorizing the abandonment or discontinuance within 10 days after the date the request to set conditions and amount of compensation was due (unless an appeal is being heard under § 1152.25(e)), or (ii) a decision vacating the prior decision, which postponed the effective date of either the decision granting the exemption or the notice of exemption and partially revoked either the decision granting the exemption or (in the case of a class exemption) the notice of exemption. The certificate or decision to vacate will be effective on its date of service. If a certificate was issued but its effective date was postponed under paragraph (e) of this section, the certificate will become effective 10 days after the date the request to set conditions and compensation was due (unless an appeal is being heard under § 1152.25(e)).

(h) * * *

(7) Within 10 days of the service date of the Commission's decision, the offeror must accept or reject the Commission's terms and conditions with a written notification to the Commission and all parties to the proceeding. If the offeror accepts the terms and conditions set by the Commission, the Commission's decision is binding on both parties. If the offeror withdraws its offer or does not accept the terms and conditions set by the Commission with a timely written notification, the Commission will serve, within 20 days after the service date of the Commission decision setting the terms and conditions, either

(i) a certificate authorizing the abandonment or discontinuance (unless other offers are being considered under paragraph (l) of this section and unless an appeal is being heard under § 1152.25(e)), or

(ii) a decision vacating the prior decision, which postponed the effective date of either the decision granting the exemption or the notice of exemption and partially revoked the exemption or (in the case of a class exemption) the notice of exemption (unless other offers are being considered under paragraph (l) of this section).

The certificate or decision to vacate will be effective on its date of service. If a certificate was issued but its effective date was postponed under paragraph (e) of this section, the certificate will become effective 20 days after the service date of the Commission decision setting the terms and conditions (unless other offers are being considered under paragraph (l) of this section or an appeal is being heard under § 1152.25(e)).

* * * * *

(j) *Discontinuance of subsidy.* A subsidizer may discontinue a subsidy under this section by giving 60 days notice of the discontinuance to the applicant and all other parties to the proceeding. Unless another financially responsible party enters into a subsidy agreement as beneficial to the carrier as the discontinued subsidy agreement, the carrier may by filing a request with the Commission and serving the request on all parties to the abandonment or exemption proceeding obtain

(1) A certificate authorizing abandonment or discontinuance of service or

(2) A decision vacating the decision postponing the effective date of either the decision granting the exemption or the notice of exemption.

The Commission will issue a certificate or decision to vacate within 10 days after the filing and service of the request. This certificate or decision to vacate will be effective immediately. If a certificate was issued but its effective date was postponed under paragraph (e) of this section, the certificate will become effective 10 days after the filing and service of the request.

* * * * *

(l) *Multiple offers of financial assistance.* (1) If an applicant receives more than one offer to purchase or subsidize the line, the applicant must select the offeror with whom it wishes to transact business. In abandonment and discontinuance application proceedings within 25 days after the **Federal Register** publication described in paragraph (b)(1) of this section and in exemption proceedings within 45 days after the **Federal Register** publication described in paragraph (b)(2) of this section, applicant must (i) file a written notification of its selection with the Commission, and (ii) serve a copy of the notification on all parties to the proceeding.

(2)(i) *Abandonment and discontinuance applications.* If the applicant has received multiple offers of financial assistance and has selected the offeror with whom it wishes to transact business, the negotiating parties shall complete the sale or subsidy agreement or request the Commission to establish the conditions and amount of compensation within 40 days after the **Federal Register** publication described in paragraph (b)(1) of this section. The request must be served concurrently on all parties to the proceeding. If no agreement on subsidy or sale is reached within the 40 day period and the Commission has not been requested to establish the conditions and amount of compensation, any other offeror may request the Commission to establish the conditions and amount of compensation. This request must be filed at the Commission within 50 days of the **Federal Register** publication described in paragraph (b)(1) of this section and served concurrently on all parties to the proceeding. If no other request is filed, the Commission will issue a certificate authorizing abandonment or discontinuance within 60 days of the **Federal Register** publication described in paragraph (b)(1) of this section (unless an appeal is being heard under § 1152.25(e)). This certificate will be effective immediately. If no other request is filed and a certificate was issued but its effective date was postponed under paragraph (e) of this section, the certificate will become effective 60 days after the **Federal Register** publication described in paragraph (b)(1) of this section (unless an appeal is being heard under § 1152.25(e)).

(ii) *Exemption proceedings.* If the carrier seeking the exemption has received multiple offers of financial assistance and has selected the offeror with whom it wishes to transact business, the negotiating parties shall complete the sale or subsidy agreement or request the Commission to establish the conditions and amount of compensation within 60 days after the **Federal Register** publication described in paragraph (b)(2) of this section. The request must be served concurrently on all parties to the proceeding. If no agreement on subsidy or sale is reached within the 60 day period and the Commission has not been requested to establish the conditions and amount of compensation, any other offeror may request the Commission to establish the conditions and amount of compensation. This request must be filed at the Commission within 70 days of the **Federal Register** publication described in paragraph (b)(2) of this section and served concurrently on all parties to the proceeding. If no other request is filed, the Commission will issue a decision vacating the decision postponing the effective date of either the decision granting exemption or (in the case of a class exemption) the notice of exemption within 80 days of the **Federal Register** publication described in paragraph (b)(2) of this section. The decision to vacate will be effective immediately.

* * * * *

7. Section 1152.50 is amended by designating the existing text of paragraph (a) as paragraph (a)(1) and by adding a new paragraph (a)(2) and revising paragraph (d)(3) to read as follows:

§ 1152.50 Exempt abandonments and discontinuance of service and trackage rights.

(a) (1) * * *

(2) Whenever the Commission determines a proposed abandonment to be exempt from the requirements of 49 U.S.C. 10903–10905, whether under this section or on the basis of the merits of an individual petition, the provisions of § 1152.27 as they relate to exemption proceedings shall be applicable.

* * * * *

(d) * * *

(3) The Commission, through the Director of the Office of Proceedings, shall publish a notice in the **Federal Register** within 20 days after the filing of the notice of exemption. Petitions to stay the effective date of the exemption and formal expressions of intent to submit

offers of financial assistance to assure continued rail service on the line must be filed within 10 days after publication, and petitions for reconsideration must be filed within 20 days after publication. The exemption will be effective 30 days after publication (unless stayed pending reconsideration or pursuant to 49 CFR 1152.27(c)(2)(i) a formal expression of intent to file an offer of financial assistance has been submitted). If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio* and the Commission shall summarily reject the exemption notice.

* * * * *

[FR Doc. 87-29210 Filed 12-21-87; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 52, No. 245
Tuesday, December 22, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

High-Level Waste Licensing Support System Advisory Committee (Negotiated Rulemaking); Fifth Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of fifth meeting.

SUMMARY: The Nuclear Regulatory Commission will hold the fifth meeting of the High-Level Waste Licensing Support System Advisory Committee on January 25–26, 1988. The Committee, established under authority of the Federal Advisory Committee Act (FACA), is tasked with developing recommendations for revision of the Commission's Rules of Practice in 10 CFR Part 2 related to the adjudicatory proceeding for the issuance of a license for a geologic repository for the disposal of high-level waste (HLW). The Committee is attempting to negotiate a consensus on proposed revisions related to the submission and management of records and documents for the HLW licensing proceeding.

DATES: The fifth meeting of the HLW Licensing Support System Advisory Committee will be held Januray 25–26, 1988, beginning at 9:30 a.m. (MST) on January 25 and 8:30 a.m. (MST) on January 26.

ADDRESSES: The location of the January 25–26, 1988, meeting of the HLW Licensing Support System Advisory Committee is the Stouffer Concourse Hotel, 3801 Quebec Street, Denver, Colorado 80207.

FOR FURTHER INFORMATION CONTACT: Donnie H. Grimsley, Director, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–7211.

SUPPLEMENTARY INFORMATION: The fifth meeting of the HLW Licensing Support System Advisory Committee ("negotiating committee") is scheduled to include continued discussion of substantive issues related to a high-level waste licensing support system.

The following are the remaining meetings of the negotiating committee that are scheduled as of the date of this notice:

February 11–12, 1988—The Conservation Foundation, Washington, DC
March 23–24, 1988—Denver, Colorado (location to be announced)
April 18–19, 1988—The Conservation Foundation, Washington, DC
May 18–19, 1988—The Conservation Foundation, Washington, DC

Dated at Bethesda, Maryland, this 17th day of December 1987.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources Management.

[FR Doc. 87–29305 Filed 12–21–87; 8:45 am]
BILLING CODE 7590–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 332

Powers Inconsistent With Purposes of Federal Deposit Insurance Law

AGENCY: Federal Deposit Insurance Corporation (" FDIC").

ACTION: Withdrawal of proposed rule.

SUMMARY: The FDIC is withdrawing a proposed amendment to Part 332 of its regulations last published for comment on June 7, 1985 (50 FR 23964) which would have, among other things, prohibited insured banks, subject to certain exceptions, from directly engaging in real estate development activities or insurance underwriting activities and would have established certain restrictions on the indirect conduct of such activities.

EFFECTIVE DATE: December 15, 1987.

FOR FURTHER INFORMATION CONTACT: Pamela E.F. LeCren, Senior Attorney, Legal Division, (202) 898–3730, Ken A. Quincy, Chief, Applications Section, Division of Bank Supervision, (202) 898–6753, or Daniel M. Gautsch, Examination Specialist, Planning and Program Development Branch, Division of Bank Supervision, (202) 898–6912, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: On November 26, 1984 the Board of Directors of the FDIC adopted a Notice of Proposed Rulemaking soliciting comment on a proposed regulation governing the direct and indirect involvement of insured banks in real estate brokerage and real estate development, insurance brokerage and underwriting, data processing for third parties, travel agency activities, and other financially related services (49 FR 48552, December 13, 1984). The Notice set forth a proposed amendment to Part 332 of the FDIC regulations ("Powers Inconsistent with the Purposes of Federal Deposit Insurance Law"). In brief that proposal: (1) Prohibited any insured bank (including insured nonmember banks, national banks, state banks that are members of the Federal Reserve System, insured branches of foreign banks, and federally chartered savings banks insured by the FDIC) from directly engaging in insurance underwriting, real estate development, reinsurance, insuring, guarantying or certifying title to real estate, guarantying or becoming surety upon the obligations of others, insuring the fidelity of others, or engaging in a surety business, (2) required any subsidiary of an insured bank that conducted any of these activities to meet the criteria for a "bona fide" subsidiary set out in the proposed regulation, (3) required notice to the FDIC of intent to invest in any such subsidiary, (4) placed certain restrictions on the affiliation of an insured bank with a company that engages in any such activities, (5) placed certain restrictions on extensions of credit and other transactions between insured banks and their subsidiaries or affiliates that engage in any such activities, (6) required all insured banks that established or acquired a subsidiary or became affiliated with a company that engaged in such activities prior to the effective date of the regulation to conform thereto within one year, (7) required any insured bank that as of the effective date of the regulation was directly engaging in any such activities to conform to the regulations within two years, and (8) placed certain restrictions on insured banks that provided electronic data processing services to persons or companies other

than banks, or acted as agent or broker for insurance, real estate, securities, or travel services.

The proposeed regulation was published for a sixty-day comment period during which 517 comments were received. After considering the comments, the FDIC issued a revised proposed regulation for an additional 45-day comment period. (50 FR 23964, June 7, 1985). The revised proposal differed from the original proposal primarily in that it: (1) Permitted an insured bank to conduct real estate development directly through the bank provided that the bank's aggregate investment in real estate development activities (including related extensions of credit) did not exceed 50% of the bank's primary capital and the bank's investment in any one real estate development project (including related extensions of credit) did not exceed 10% of the bank's primary capital, (2) permitted an insured bank to operate a life insurance underwriting department within the bank under certain conditions, (3) defined the term "real estate development", (4) added a waiver provision, (5) deleted the provisions of the proposal dealing with insurance and real estate brokerage, data processing, and travel agency activities, and (6) revised the proposed compliance time periods. The FDIC also held a one-day public hearing on the revised proposal (July 12, 1985) at which 14 individuals participated through the submission of written and oral testimony. Eighty-four written comments (in addition to those submitted at the hearing) were received over the 45-day comment period.

At its December 15, 1987 meeting the FDIC's Board of Directors voted to formally withdraw the June 7, 1985 proposal. It is the Board of Director's opinion that as more than two years have passed since the proposal was isued for comment the proposal has grown "stale" and significant work is necessary to update and complete the proposal. Furthermore, preliminary indications are that there are presently no system wide problems resulting from newly-granted real estate investment or insurance powers. The Board of Directors has, therefore, decided that the proposal should be withdrawn. Staff has been instructed, however, to continue to study events in the marketplace and any instances of safety and soundness problems associated with real estate and insurance powers and to repropose a regulation for the Board of Directors' consideration as appropriate.

The Board of Directors acknowledges that no final action has been taken on the proposal to date in part due to ongoing discussions between the FDIC and the Board of Governors of the Federal Reserve System in an attempt to coordinate final action on the June, 1985 proposal with action by the Board of Governors on its proposed rulemaking concerning real estate activities of bank holding companies and their subsidiaries. (50 FR 4519 and 52 FR 42301). Those discussions will continue as appropriate.

The Board of Directors wishes to stress that this action is not prompted by a decision to discontine efforts toward establishing guidelines for the safe and sound conduct of real estate development and insurance underwriting activities by insured banks and their subsidiaries and affiliates. It is the Board of Directors' intent rather that staff actively continue to study bank involvement in these activities and develop a proposed regulatory approach, as appropriate, for the Board's consideration as soon as those efforts are complete. In the interim, the FDIC will monitor bank involvement in these areas and deal with any supervisory problems on a case-by-case basis.

Dated at Washington, DC, this 15th day of December, 1987.

By Order of the Board of Directors.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-29259 Filed 12-21-87; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-ASW-35]

Proposed Revision of Transition Area; Terrell, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking will revise the transition area located at Terrell, TX. The development of a new standard instrument approach procedure (SIAP) to the Terrell Municipal Airport utilizing the new Travis Nondirectional Radio Beacon (NDB) has made this action necessary. Additionally, a review of the categories of aircraft now operating into and out of the airport has revealed the need to revise the transition area. The intended effect of this proposed revision is to provide additional controlled airspace for aircraft executing the new SIAP to the airport. The proposed revision will provide adequate controlled airspace for all SIAP's now serving the airport.

DATES: Comments must be received on or before January 28, 1988.

ADDRESSES: Send comments on the proposal in triplicate to:

Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 87-ASW-35, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530; Telephone: (817) 624-5561.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written date, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-ASW-35." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive

public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by revising the transition area located at Terrell, TX. The development of a new SIAP utilizing the Travis NDB, plus a change in the categories of aircraft operating into and out of the airport, has necessitated this proposed revision. This proposed revision will increase the present transition area from a 5-mile radius of the airport to a 6.5-mile radius of the airport, with an arrival extension to the northeast. The intended effect of this proposed revision is to provide adequate controlled airspace for all SIAP's now serving the airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Terrell, TX [Revised]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Terrell Municipal Airport (latitude 32°42'36"N., longitude 96°16'02"W.), and within 5.5 miles each side of the 019° bearing from the Travis NDB (latitude 32°45'36"N., longitude 96°14'56"W.), extending from the 6.5-mile radius to 11 miles northeast of the airport.

Issued in Fort Worth, TX, on December 9, 1987

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 87–29254 Filed 12–21–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 87–ASO–18]

Proposed Alteration of Transition Area; Eastman GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Eastman, Georgia, transition area by adding an extension for a nondirectional radio beacon (NDB) standard instrument approach procedure to Runway 2 at the Eastman-Dodge County Airport. This action will lower the base of controlled airspace from 1,200 ft. to 700 ft. above the surface within three miles each side of the 203° bearing from the Eastman NDB (latitude 32°12'50"N., longitude 83°07'32"W.) from the six mile radius area of the Eastman-Dodge County Airport (latitude 32°12'51"N., longitude 83°07'42"W.) to 8.5 miles southwest of the NDB.

DATES: Comments must be received on or before: January 24, 1988.

ADDRESSES: Send comments on the proposal in triplicate to:

Federal Aviation Administration, ASO–530, Manager, Airspace and Procedures Branch, Docket No. 87–ASO–18, P.O. Box 20636, Atlanta, Georgia, 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rule-making by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87–ASO–18." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No.

11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Eastman, Georgia, Transition Area. This action will provide additional controlled airspace for aircraft executing a new NDB standard instrument approach procedure to Runway 2 at the Eastman-Dodge County Airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6C dated January 2, 1987.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter than will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Eastman, Georgia (Amended)

By changing the period at the end of the present description to a semicolon and adding, "within three miles each side of the 203° bearing from the Eastman, GA, NDB (latitude 32°12'50"N., longitude 83°07'32"W.), extending from the 6-mile radius area to 8.5 miles southwest of the NDB."

Issued in East Point, Georgia, on December 8, 1987.

William D. Wood,

Acting Manager, Air Traffic Division Southern Region.

[FR Doc. 8–29253 Filed 12–21–87; 8:45 am]

BILLING CODE 4910–13–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Poison Prevention Packaging Requirements; Proposed Exemption of Certain Conjugated Estrogens Tablets

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend its regulation that allows certain conjugated estrogens tablets to be marketed in mnemonic packages [1] that are not child-resistant. Except for this regulation, child-resistant packaging would be required because these substances are oral prescription drugs. The proposed amendment would increase from 26.5 mg to 32 mg the amount of the drug allowed per non-child-resistant mnemonic package. This drug is proposed to be exempted because of its low toxicity. The drug is used for the treatment of a variety of female hormonal imbalance disorders.

DATE: Comments on the proposal should be submitted not later than February 22, 1988.

ADDRESSES: Comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 528, 5401 Westbard Avenue, Bethesda, Maryland, telephone (301) 492–6800.

All public documents that the Commission has concerning this proceeding may be inspected at, or copies obtained from, the Office of the Secretary.

FOR FURTHER INFORMATION CONTACT: Virginia White, Project Manager, Office of Program Management and Budget, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 492–6554.

Inquiries from the media should be directed to Lou Brott, Office of Media Relations, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 492–5540.

SUPPLEMENTARY INFORMATION:

A. Background

Among other substances, oral prescription drugs intended for human use are subject to child-resistant packaging requirements issued under the Poison Prevention Packaging Act of 1970 ("the PPPA"), 15 U.S.C. 1471–1476. 16 CFR 1700.14(a)(10). There currently is an exemption from these requirements for conjugated estrogens, when dispensed in mnemonic packages containing not more than 26.5 mg of the drug and containing no other substances subject to § 1700.14(a)(10). 49 FR 50388; December 28, 1984. Conjugated estrogens are hormonal drugs used for the treatment of various female hormone imbalance disorders.

By letter dated October 10, 1986, Ayerst Laboratories petitioned the Commission to extend the exemption for conjugated estrogens from 26.5 mg to 32 mg per mnomonic package.

The petitioner requested the extension because of current prescribing practices, which indicate that many physicians now prefer a 25-day monthy cyclic regimen to the previously-favored 21-day regimen.

As justification for the requested increased exemption, the petitioner cited the human experience data which supported the original exemption for conjugated estrogens. These data show the absence of acute toxicity resulting from accidental ingestion of conjugated estrogens by young children.

The petitioner states that the exemption is further warranted because conjugated estrogens are closely related biochemically and pharmacologically to several of the estrogenic compounds used as oral contraceptives, which were previously exempted from child-resistant packaging requirements by the Commission, but that conjugated estrogens are less potent in terms of estrogenic activity. The petitioner notes that the exemption for oral contraceptives does not refer to specific amounts of hormones. The petitioner believes that this provides a precedent for extension of the exemption for conjugated estrogens from 26.5 mg to 32 mg per package.

The petitioner states that because conjugated estrogens are used primarily to treat postmenopausal symptoms and osteoporosis, this product, unlike oral contraceptives, is used primarily in households without young children. The petitioner states that the many elderly

[1] A mnemonic package is any package designed for the administration of one dosage unit at a time and incorporating any feature which serves to remind the user to take the dosage at specified intervals throughout the period during which the medication is to be administered.

users of the product are likely to experience difficulty using child-resistant packaging.

Conjugated estrogens have been available for several decades as a prescription drug for the treatment of female hormone imbalance disorders. It is estimated that between 2.9 and 3.6 million women are using these products. About 12 pharmaceutical companies manufacture oral conjugated-estrogens products. Unit volume for these products in 1980 is estimated at 564 million tablets, with sales of $80 million. Approximately 7.3 million prescriptions for these products were filled in 1980.

B. Toxicity Data

Theoretical lethal dose. Based upon the extrapolation of animal test data submitted by the petitioner, the theoretical lethal dose of conjugated estrogens for a 10 kilogram child would between 1.8 and 3.3 grams, which is 58 to 100 times the amount that would be in a single package of the requested exempted amount.

Chronic Toxicity. Estrogens should be avoided during pregnancy because of possible damage to the fetus. Similar effects have been observed for a variety of drugs, indicating the special susceptibility of the fetus to the toxic effects of many chemicals and drugs. Long-term therapeutic administration of estrogenic compounds has been shown to lead to an increased risk, in women, of endometrial cancer and of various blood clotting disorders. There is no evidence, however, that such effects would be expected from a single acute exposure in a child. No such effects have been reported over the span of more than forty years which these drugs have been marketed.

C. Injury Data

For the period 1978 through 1984, data from the National Clearinghouse for Poison Control Centers show 169 reported ingestions of conjugated estrogens. Five of the cases reported symptoms; none resulted in a hospital visit.

For the period 1978 through January 1987, the Commission's "Children and Poisonings" data base shows 13 children treated in hospital emergency rooms following ingestion of conjugated estrogens. None of the children was hospitalized.

Literature reviews conducted by the staff and by the petitioner reveal no reports of death or serious injury following ingestions of conjugated estrogens by children under age five. There have been reports of cramping, vomiting, nausea, and diarrhea following acute ingestion of large amounts of estrogens.

It should be noted also that unit dose packaging tends to limit the amount a small child ingests, because of the time and effort necessary to open each unit.

D. FDA Comments

The Food and Drug Administration, Center for Drugs and Biologics, also reviewed the petition and concluded that the increased amount of conjugated estrogens, *i.e.*, from 26.5 mg per mnemonic package to 32 mg per mnemonic package, would pose no health risk to children under five as a result of accidental ingestion.

E. Action on the Petition

Based upon the animal data and human experience information discussed above, it appears that this drug has low toxicity and poses a minimal threat of illness or injury in children as a result of accidental ingestion.

After considering the available information, the Commission preliminarily concludes that the degree and nature of the hazard to children in the availability of the conjugated estrogens tablets that are the subject of this petition are such that special packaging is not required to protect children from serious personal injury or serious illness resulting from handling, using or ingesting such substance. Accordingly, the Commission voted to grant the petition. Therefore, the Commission proposes below to amend 16 CFR 1700.14(a)(10) to exempt Conjugated Estrogens Tablets, U.S.P., from requirements for child-resistant packaging, when dispensed in mnemonic packages containing not more the 32 mg of the drug.

F. Regulatory Flexibility Certification

When an agency undertakes a rulemaking proceeding, the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*) generally requires the agency to prepare proposed and final regulatory flexibility analyses discribing the impact of the rule on small businesses and other small entities. The purpose of the Regulatory Flexibility Act, as stated in section 2(b) (5 U.S.C. 602 note), is to require agencies, consistent with their objectives, to fit the requirements of regulations to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulations. Section 605 of the Act provides that an agency is not required to prepare a regulatory flexibility analysis if the head of an agency certifies that the rule will not have a significant economic impact of a substantial number of small entities.

The exemption issued below will have the effect of giving the manufacturers of the exempted products the option of packaging their product in an additional manner. The difference in cost for packaging with special packaging and with packaging permitted by the exemption is not believed to be significant. Accordingly, the Commission concludes that this exemption will not have any significant economic effect on a substantial number of small entities.

G. Environmental Considerations

The Commission's regulations governing environmental review procedures state, at 16 CFR 1021.5(c)(3), that exemption of products from requirements for child-resistant packaging under the PPPA normally has little or no potential for affecting the human environment. The Commission does not foresee any special or unusual circumstances surrounding the exemption issued below. For this reason, the Commission concludes that neither an environmental assessment nor an environmental impact statement is required in this proceeding.

H. Effective Date

Since the rule proposed below provides for an exemption, the provision of 5 U.S.C. 553(c) requiring a delay in the effective date is inapplicable. Accordingly, the rule shall become effective upon publication of the final rule in the **Federal Register.**

List of Subjects in 16 CFR Part 1700

Consumer protection, Drugs, Infants and children, Packaging and containers, Poison prevention, Toxic substances.

Conclusion

For the reasons given above, the Commission proposes to amend Title 16 of the Code of Federal Regulations as follows:

PART 1700—[AMENDED]

1. The authority citation for Part 1700 is revised to read as follows:

Authority: Pub. L. 91-601, secs. 1-9, 84 Stat. 1670-74, 15 U.S.C. 1471-76. Secs. 1700.1 and 1700.14 also issued under Pub. L. 92-573, sec. 30(a), 86 Stat. 1231, 15 U.S.C. 2079(a).

2. Section 1700.14(a)(10)(xvii) is revised to read as follows:

§ 1700.14 Substance requiring special packaging.

(a) * * *

(10) * * *

(xvii) Conjugated Estrogens Tablets, U.S.P., when dispensed in mnemonic packages containing not more than 32.0 mg of the drug and containing no other substances subject to this § 1700.14(a)(10).

* * * * *

Dated: December 8, 1987.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 87-28742 Filed 12-21-87; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-137-86]

Limitation on Deduction for Nonbusiness Interest; Personal Interest

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary amendments to the income tax regulations relating to the treatment of personal interest and the treatment and determination of qualified residence interest. Changes to the law were made by the Tax Reform Act of 1986. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: The regulations contained in this document are proposed to be effective for taxable years beginning after December 31, 1986. Written comments and requests for a public hearing must be delivered or mailed by February 22, 1988.

ADDRESS: Send comments and requests for public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-137-86), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Sharon L. Hall of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:LR:T) (202-566-3288, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations (designated by a T following the section citation) in the Rules and Regulations portion of this issue of the **Federal Register** amend Part 1 of Title 26 of the Code of Federal Regulations. These amendments reflect the provisions of section 163(h) of the Internal Revenue Code of 1986 as added by section 511(b) of the Tax Reform Act of 1986 (Pub. L. 99-514, 100 Stat. 2246). For the text of the temporary regulations, see FR Doc. (T.D. 8168) published in the Rules and Regulations portion of this issue of the **Federal Register**. A general discussion of the temporary regulations is contained in the preamble to the regulations. The final regulations, which this document proposes to base on the temporary regulations, would amend Part 1 of Title 26 of the Code of Federal Regulations.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. Although this document is a notice of proposed rulemaking that solicits public comments, the Internal Revenue Service has concluded that the proposed regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. chapter 6).

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on the requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, DC 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who submitted comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Sharon L. Hall of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury participated in developing the regulations on matters of both substance and style.

List of Subjects in 26 CFR 1.61-1—1.281-4

Income taxes, Taxable income, Deductions, Exemptions.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 87-29273 Filed 12-21-87; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 285

[DoD Directive 5400.7]

DoD Freedom of Information Act Program

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: This proposed rule published a revision to DoD Directive 5400.7, which is the authority document for publication of DoD Regulation 5400.7-R. DoD Regulation 5400.7-R (32 CFR Part 286) was published as a final rule on July 10, 1987 (Vol. 52, No. 132) pursuant to the Freedom of Information Reform Act of 1986, section 1801-1804 (Pub. L. 99-540); and section 954 of the National Defense Authorization Act for FY 1987 (Pub. L. 99-661). This proposed rule merely addresses nonsubstantive administrative changes to DoD Directive 5400.7 to make it consistent with DoD Regulation 5400.7-R.

DATE: Comments will be accepted January 21, 1988.

ADDRESS: Send comments to: Charlie Y. Talbott, Office of the Assistant Secretary of Defense (Public Affairs), Washington, DC 20301-1400.

FOR FURTHER INFORMATION CONTACT: Charlie Y. Talbott, (202) 697-1180.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 285

Freedom of information.

Accordingly, Title 32, Chapter I, is amended to add Part 285 as follows:

PART 285—DOD FREEDOM OF INFORMATION ACT PROGRAM

Sec.
285.1 Reissuance and purpose.
285.2 Applicablity and scope.
285.3 Definitions.
285.4 Policy.
285.5 Responsibilities.
286.6 Information requirements.
286.7 Effective date and implementation.

Authority. Public Law 99-570, secs. 1801-1804; Pub. L. 99-661, Sec. 2328; 5 U.S.C. 552.

§ 285.1 Reissuance and purpose.

(a) This part:

(1) Reissues DoD Directive 5400.7.[1]

(2) Establishes policies and procedures for the implementation of the DoD Freedom of Information Act (FOIA) Program under 5 U.S.C. 552.

(3) Delegates authorities and responsibilities for the effective administration of the program.

(b) This part also authorizes, consistent with DoD 5025.1-M [2] the publication of DoD 5400.7-R, [3] the single DoD regulation on the FOIA Program.

§ 285.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense (OSD) and its administrative support agencies, the Military Departments, the Organization of the Joint Chiefs of Staff (OJCS), the Unified and Specified Commands, the Defense Communications Agency (DCA), Defense Contract Audit Agency (DCAA), Defense Intelligence Agency (DIA), Defense Investigative Service (DIS), Defense Logistics Agency (DLA), Defense Mapping Agency (DMA), and the Defense Nuclear Agency (DNA). For the purpose of this part, OSD, OJCS, the Unified Commands, and OSD administrative support agencies are considered one "DoD Component." The other DoD Components referred herein are the Military Departments, DCA, DCAA, DIA, DIS, DLA, DMA, and DNA.

(b) The National Security Agency records are subject to this part unless the records are exempt under Pub. L. 86-36.

§ 285.3 Definitions.

The terms used in this part are defined in 32 CFR Part 286.

§ 285.4 Policy.

It is DoD policy to:

(a) Promote public trust by making the maximum amount of information available to the public on the operation and activities of the Department of Defense, consistent with DoD's responsibility to ensure national security.

(b) Allow a requester to obtain records from the Department of Defense that are available through other public information services without invoking the FOIA.

(c) Make available, under the procedures established by 32 CFR Part 286, those records that are requested by a member of the general public who cites the FOIA.

(d) Answer promptly all other requests for information, records, objects, and articles under established procedures and practices.

(e) Release records to the public unless those records are exempt from mandatory disclosure as outlined in Chapter III of DoD 5400.7-R.

(f) Process requests by individuals for access to records about themselves under the Privacy Act procedures as implemented by 32 CFR Part 286a, and procedures outlined in this part as amplified by 32 CFR Part 286.

§ 285.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Public Affairs)* (ASD(PA)) shall:

(1) Direct and administer the DoD FOIA Program to ensure compliance with policies and procedures that govern the administration of the program.

(2) Issue a DoD FOIA regulation and other discretionary instructions and guidance to ensure timely and reasonably uniform implementation of the FOIA in the Department of Defense.

(3) Internally administer the FOIA Program for the OSD, the OJSC and, as an exception to DoD Directive 5100.3 [4] the Unified Commands (the Specified Commands remain under the Military Departments for FOIA matters).

(4) As the designee of the Secretary of Defense, serve as the sole appellate authority for appeals to decisions of respective Initial Denial Authorities identified in ASD(PA) supplementing instructions.

(b) The *General Counsel of DoD* shall provide uniformity in the legal interpretation of this part.

(c) *Heads of DoD Components* shall:

(1) Publish in the **Federal Register** any instructions necessary for the internal administration of this part within a DoD Component that are not prescribed by this part or by other issuances of the ASD(PA). For the guidance of the public, the information specified in 5 U.S.C. 552(a)(1) shall be published in accordance with 32 CFR Part 296.

(2) Conduct training on the provisions of this part and 5 U.S.C. 552 as amended for officials and employees who implement the FOIA.

(3) Submit the reports prescribed in Chapter VII of DoD 5400.7-R.

(4) Make available for public inspection and copying in an appropriate facility or facilities, in accordance with rules published in the **Federal Register**, the records specified in 5 U.S.C. 552(a)(2) unless such records are published and copies are offered for sale.

(5) Maintain and make available for public inspection and copying current indices of these records.

§ 286.6 Information requirements.

The reporting requirements in Chapter VII of DoD 5400.7-R have been assigned Report Control Symbol DD-PA(A) 1365.

§ 286.7 Effective date and implementation.

This part is proposed to be effective January 21, 1988. Forward one copy of implementing documents to the Assistant Secretary of Defense (Public Affairs) within 120 days.

Linda M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

December 17, 1987.

[FR Doc. 87-29294 Filed 12-21-87; 8:45 am]

BILLING CODE 3810-01-M

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[1] Copies may be obtained, if need, from the U.S. Naval Publications and Forms Center, Attn: Code 1052, 5801 Tabor Avenue, Philadelphia, PA 19120.

[2] Copies may be obtained, at cost, from the National Technical Information Service, 5258 Port Royal Road, Springfield, VA 22161.

[3] See footnote 2 to § 285.1(b).

[4] See footnote 1 to § 286.1(a).

Notices

Federal Register
Vol. 52, No. 245
Tuesday, December 22, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Special Population Census—Address Register and Enumeration Book
Form Number: Agency—SC-19, SC-19A; OMB—0607-0368
Type of Request: Revision of a currently approved collection
Burden: 150,000 respondents; 12,450 reporting hours
Needs and Uses: This collection is used to obtain current population data between the decennial census. Collected data are used as an input to the calculations of the Bureau's local area estimates. Data are also used by many states for the distribution of funds to locals governments.
Affected Public: Individuals or households
Frequency: As requested
Respondent's Obligation: Voluntary
OMB Desk Officer: Francine Picoult 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3228, New Executive Office Building, Washington, DC 20503.

Dated: December 15, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-29265 Filed 12-21-87; 8:45 am]

BILLING CODE 3510-07-M

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals or collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis
Title: Transactions of U.S. Banking Branch or Agency with Foreign Parent
Form Number: Agency—BE-606B; OMB—0608-0023
Type of Request: Revision of a currently approved collection
Burden: 325 respondents; 1,300 reporting hours
Needs and Uses: This collection is used to obtain data on current and capital account transactions between foreign owners holding a 10 percent or more ownership interest in unincorporated U.S. banks and the U.S. banking branches or agencies for the preparation of the balance of payments accounts of the United States.
Affected Public: Businesses or other for-profit institutions
Frequency: Quarterly
Respondent's Obligation: Mandatory
OMB Desk Officer: John Griffen 395-7340

Agency: Bureau of Economic Analysis
Title: Transactions of U.S. Affiliate, Except an Unincorporated Bank, with Foreign Parent
Form Number: Agency—BE-605; OMB—0608-0009
Type of Request: Revision of a currently approved collection
Burden: 3,000 respondents; 12,000 reporting hours
Needs and Uses: This collection is used to obtain data on current and capital account transactions between foreign owners (other than banking branches and agencies) holding a 10 percent or more ownership interest in U.S. business enterprises and their U.S. business enterprises. Data are required for the preparation of the balance of payments accounts of the United States.
Affected Public: Businesses or other for-profit institutions
Frequency: Quarterly
Respondent's Obligation: Mandatory
OMB Desk Officer: John Griffen 395-7340

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to John Griffen, OMB Desk Officer, Room 3228, New Executive Office Building, Washington, DC 20503.

Dated: December 15, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-29266 Filed 12-21-87; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

[Application #87-A0004]

Export Trade Certificate of Review; National Machine Tool Builders' Association

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of issuance of an amended export trade certificate of review, Application #87-A0004.

SUMMARY: The Department of Commerce has issued an amendment to the export trade certificate of review granted to the National Machine Tool Builders' Association ("NMTBA") on May 19, 1987 (52 FR 19371, May 22, 1987).

FOR FURTHER INFORMATION CONTACT: John E. Stiner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

The amendment consists of the following changes:

(1) Hurco Companies, Inc., Indianapolis, Indiana, and Manufacturing Technology, Inc., Mishawaka, Indiana, have been added as "Members" of the certificate;

(2) The following companies have been deleted as "Members" of the certificate: ACME-Cleveland Corp.; AMAF Industries, Inc.; Apex Corporation; Automated Machine Tool Technology, Inc.; Barker Milling Machine Company; Farrel Company; Harvill Machine Inc.; Hydra-Tool Corp.; Laser Systems Division; Lehman Division of Smith International Inc.; MG Cutting Systems; MHP Machines, Inc.; V & O Press Company, Inc.; Wadell Equipment Company, Inc.; Wardell Mfg. Co., Inc.; and The Wheelabrator Corp;

(3) The "Members" Landis Tool Co. and Lamb Techicon Corp. have been replaced with their controlling entity, Litton Industrial Automation Systems, Inc; and the "Member" Teledyne Landis Machine has been replaced with its controlling entity. Teledyne Industries, Inc.; and

(4) The company name listing for the "Member" APEC-Guill Technologies Inc. has been changed to APEC/CPM Guill Technologies Inc.; Automated Machine Tool Technology, Inc. to ACROLOC/CNC Systems; Cam-Apt, Inc. to CAM-APT Technologies; Chemtool Deburring Systems to CHEMTOOL, Incoporated; Clearing to USI Clearing; C.O. Hoffacker Company to C.O. Hoffacker Co. Division of the Hoff Co.; Dake to Dake Division, JSS Corporation; Davenport Machine Tool Division to Davenport Machine—A Dover Industries Company; ES-Tech to Equipment Systems; Fairfield Machine to Fairfield Machine Co., Inc.; Geometric Tool to Geometric Tool—Division Greenfield Industries; Giddings and Lewis to Giddings and Lewis—A Division of Amco International Corporation; Hansvedt EDM Division to Hansvedt; Harper Buffing Machine to Harper Company; HE&M Saw to HEM, Inc.; P.R. Hoffman to P.R. Hoffman Machine Products Co.; Imperial Stamp & Engraving Company to Imperial Stamp & Engraving Co., Inc.; Industrial Development Systems to Industrial Development Systems, Inc.; Intertech Automation Company to Intertech Development Company; ITW Illitron to Illinois Tools Works Inc.; Livernois Automation Company to Livernois Engineering Co.; The Lodge & Shipley Company to Lodge & Shipley/Manuflex; Lyon Machine Builders Div. to Lyon Machine Builders; Miller Fluid Power Corporation to Miller Fluid Power; National Automatic Tool Co., Inc., to NATCO, Inc.; The Olofsson Corporation to Olofsson Corporation; Peerless Saw Division to Peerless Saws; PMC Industries to PMC Industries, Inc.; Republic Lagun Machine Tool Co. to Republic Lagun CNC Corporation; S-P Manufacturing Corporation to The S-P Manufacturing Corporation; Geo. T. Schmidt Division to Geo T. Schmidt; Universal Engineering to Universal Engineering Div. Stanwhich Industries Inc.; Valenite-Kamset to GTE Valetine Corporation; Vulcan Tool Company to Vulcan Tool Corp.

EFFECTIVE DATE: October 8, 1987.

A copy of the certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Date: December 16, 1987.

John E. Stiner,

Director, Office of Export Trading Company Affairs.

[FR Doc. 87-29285 Filed 12-21-87; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing an Import Restraint Limit for Certain Cotton Textile Products Produced or Manufactured in the German Democratic Republic Effective on January 1, 1988

December 17, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1988. For further information contact Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 334, produced or manufactured in the German Democratic Republic and exported during the twelve-month period which begins on January 1, 1988 and extends through December 31, 1988, in excess of the designated specific limit.

Background

The Bilateral Cotton Textile Agreement, effected by exchange of notes dated December 10, 1986 and February 27, 1987, between the Government of the United States and the German Democratic Republic establishes a specific limit for cotton textile products in Category 334, produced or manufactured in the German Democratic Republic and exported during the period which begins on January 1, 1988 and extends through December 31, 1988.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175, May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 17, 1987.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Cotton Textile Agreement, effected by exchange of notes dated December 10, 1986 and February 27, 1987, between the Governments of the United States and the German Democratic Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1988, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Catetory 334, produced or manufactured in the German Democratic Republic and exported during the twelve-month period which begins on January 1, 1988 and extends through December 31, 1988, in excess of 19,500 dozen.

To the extent that trade which now falls in the foregoing category is within a category limit for the period January 1, 1987 through December 31, 1987, such trade, to the extent of any unfilled balances, shall be charged against the levels of restraint established for such goods during the period. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

The restraint limit set forth above is subject to adjustment in the future according to the provisions of the agreement, effected by exchange of notes dated December 10, 1986 and February 27, 1987 between the Governments of the United States and the German Democratic Republic, which provide, in part, that: (1) Specific limits may be exceeded by designated percentages during an agreement year for carryover and carryforward; no carryover shall be available during the first agreement year; (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of this agreement.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the commonwealth of Puerto Rico.

The Committee for this Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-29237 Filed 12-21-87; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of an Import Restraint Limit for Certain Cotton Textile Products Produced or Manufactured in Uruguay

December 16, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on December 17, 1987. For further information contact Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the restraint limit for cotton textile products in Category 335, which are exported from Uruguay during the six-month period which began on July 1, 1987 and extends through December 31, 1987.

Background

A CITA directive dated December 4, 1987 (52 FR 26820), as amended, established, among other things, an import limit for certain cotton textile products in Category 335, produced or manufactured in Uruguay and exported during the six-month period which began on July 1, 1987 and extends through December 31, 1987. Pursuant to a request from the Government of the Republic of Uruguay and under the terms of the Bilateral Cotton and Wool Textile Agreement, effected by exchange of notes dated December 30, 1983 and January 23, 1984, as amended, and as further amended September 10, 1987, between the Governments of the United States and the Republic of Uruguay, Category 335 is being increased for carryforward.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register**.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 16, 1987.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 4, 1987 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports of cotton textile products in Category 335, produced or manufactured in Uruguay and exported during the six-month period which began on July 1, 1987 and extends through December 31, 1987.

Effective on December 17, 1987, the directive of December 4, 1987 is amended to include an adjusted limit of 67,000 dozen [1] for cotton textile products in Category 335, under the terms of the Bilateral Cotton and Wool Textile Agreement, effected by exchange of notes dated December 30, 1983 and January 23, 1984.[2]

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-29236 Filed 12-21-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on B-1B Defensive Avionics; Cancellation of Meeting.

AGENCY: Department of Defense.

[1] The limit has not been adjusted to account for imports exported after December 31, 1986.

[2] The agreement provides, inpart, that: (1) specific limits may be exceeded by designated percentages; (2) specific limits may be increased for carryover and carryforward; (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement; and (4) carryforward of 100 percent is available for restraints prorated to facilitate adoption of the Harmonized Code.

ACTION: Cancellation of meeting.

SUMMARY: The meeting notice for the Defense Science Board Task Force on B–1B Defense Avionics for December 22–23, 1987 as published in the **Federal Register** (Vol. 52, No. 197, Page 38000–38001, Tuesday, October 13, 1987, FR Doc 87–23644) has been cancelled.

Linda Bynum,

Alternate OSD Federal Register Liaison Offcer, Department of Defense.

December 17, 1987.

[FR Doc. 87–29295 Filed 12–21–87; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on B–1B Defense Avionics; Meeting

AGENCY: Department of Defense.

ACTION: Change in date and location of advisory committee meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on B–1B Defensive Avionics scheduled for January 12–13, 1988 at the Pentagon, Arlington, Virginia, as published in the **Federal Register** (Vol. 52, No. 197, Page 38000–38001, Tuesday, October 13, 1987, FR Doc. 87–23644) will be held on January 11–12, 1988 at the Naval Research Laboratory, Washington, DC.

Linda Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

December 17, 1987.

[FR Doc. 87–29296 Filed 12–21–87; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Use of Commercial Components in Military Equipment; Meetings

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Use of Commercial Components in Military Equipment will meet in closed session on January 11, 1988 at the TRW Corporation, Washington, DC.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will receive classified briefings on military acquisition programs and systems availability and the affect of increased use of commercial items on force posture.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Linda Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

December 17, 1987.

[FR Doc. 87–29297 Filed 12–21–87; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board; Meetings

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Board will meet in closed session on February 10–11, May 18–19, and October 19–20, 1988 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Defense Science Board will discuss interim findings and tentative recommendations resulting from ongoing Task Force activities. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. No. 92–463, as amended (5 U.S.C. App. II (1982)), it has been determined that these Defense Science Board meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Linda Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

December 17, 1987.

[FR Doc. 87–29298 Filed 12–21–87; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Office of Energy Research

Energy Research Advisory Board, Research & Technology Utilization Panel; Open Meeting

Notice is hereby given of the following meeting:

Name: Research and Technology Utilization Panel of the Energy Research Advisory Board (ERAB).

Date & Time: January 12, 1988—12:30 p.m.–5:00 p.m., January 13, 1988—8:30 a.m.–5:00 p.m.

Place: Department of Energy, 1000 Independence Ave., SW., Room 4A–110, Washington, DC 20585.

Contact: Charles E. Cathey, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586–2263.

Purpose of the Parent Board

To advise the Department of Energy (DOE) on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Purpose of the Panel

The Research and Technology Utilization Panel is a subgroup of ERAB and reports to the parent Board. The Research and Technology Utilization Panel will: review the process and effectiveness of the movement of scientific research and technology from DOE and its contractors to industry, universities, and state and local governments; review the technology transfer objectives and efforts of the major Departmental programs; evaluate the significance of past activities in this area; and make recommendations to improve the activities.

Tentative Agenda

- The agenda for this meeting will be to hear presentations from universities and corporations on their experiences with technology transfers from the Department. These will include presentations from AMAX, ARCO, Babcock-Wilcox, Ford, Massachusetts Institute of Technology and the University of Texas, among others.
- Public Comment (10 minute rule)

Public Participation

The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles Cathey at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes of the Meeting

Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Ave., SW., Washington, DC between 9:00 am and 4:00 pm, Monday through Friday, except Federal holidays. Issued at Washington, DC December 10, 1987.

Charles E. Cathey,

Deputy Director, Science & Technology Affairs Office of Energy Research.

[FR Doc. 87-29262 Filed 12-21-87; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1699]

Petitions for Reconsideration and Clarification of Actions in Rulemaking Proceedings

December 15, 1987.

Petitions for reconsideration and clarification have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street NW., Washington, DC, or may be purchased from the Commissions copy contractor, International Transcription Service (202-857-3800). Oppositions to these petitions must be filed; See § 1.4(b)(1) of the Commissions rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Separation of costs of regulated telephone service from costs of nonregulated activities.

Amendment of Part 31, the Uniform System of Accounts for Class A and Class B Telephone Companies to provide for nonregulated activities and to provide for transactions between telephone companies and their affiliates. (CC Docket No. 86-111) Number of petitions received: 2

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-29281 Filed 12-21-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Change in Bank Control; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 11, 1988.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Kirkpatrick & Co.*, Oklahoma City, Oklahoma; to acquire an additional 4.87 percent of the voting shares of United Oklahoma Bankshares, Inc., Del City, Oklahoma, and thereby indirectly acquire United Del City Bank, Del City, Oklahoma.

Board of Governors of the Federal Reserve System, December 16, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-29229 Filed 12-21-87; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[Wildlife Order 164; 7-GR(1)-TX-864]

Naval Research Transmitter Site, Roma, TX; Transfer of Property

Pursuant to section 2 of Pub. L. 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By letter from the General Services Administration dated November 4, 1987, the property, consisting of 29.57 acres fee and 1-acre easement improved with four structures, known as the former Naval Research Transmitter Site, Roma, Texas, was transferred to the U.S. Fish and Wildlife Service.

2. The above described property was conveyed for the purpose of wildlife conservation in accordance with the provisions of section 1 of said Pub. L. 80-537 (16 U.S.C. 667b), as amended by Pub. L. 92-432.

Dated: November 30, 1987.

Earl E. Jones,

Commissioner, Federal Property Resources Service.

[FR Doc. 87-29233 Filed 12-21-87; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Recommendations for Protecting the Health and Safety Against Potential Adverse Effects of Long-Term Exposure to Low Doses of Agents: GA, GB, VX, Mustard (H, HD, T), and Lewisite (L)

AGENCY: Centers for Disease Control (CDC), Public Health Service, HHS.

ACTION: Request for public comment.

SUMMARY: Agents GA, GB, VX, MUSTARD (H, HD, T), and Lewisite (L) are now stored by the Department of Defense (DOD). Pub. L. 99-145 (50 U.S.C 1521) mandates that all unitary (self-contained) lethal and chemical munitions be destroyed by 1994. Pub. L. 91-121 and Pub. L. 91-441 (50 U.S.C 1512) mandate that the Department of Health and Human Services must review DOD plans for disposing of these munitions and make recommendations to protect human health. Public comment is requested on these recommendations.

DATE: Comments must be received on or before January 21, 1988.

ADDRESS: Comments may be mailed to Director, Center for Environmental Health and Injury Control, Centers for Disease Control, Chamblee 27, Room 1005 MS F29, 1600 Clifton Road, NE., Atlanta, GA 30333.

FOR FURTHER INFORMATION CONTACT: Linda W. Anderson, Chief, Special Programs Group, Center for Environmental Health and Injury, Centers for Disease Conrol, Chamblee 27, Room 1208 MS F29, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

SUPPLEMENTARY INFORMATION: Section 1412 of Pub. L. 99-145 (50 U.S.C 1521) mandates that the present stockpile of lethal chemical agents be destroyed by September 30, 1994. Pub. L. 91-121 and Pub. L. 91-441 (50 U.S.C. 1512) mandate that the Department of Health and Human Services (HHS) review Department of Defense (DOD) plans for transporting and/or disposing of lethal chemical agents and make recommendations for protecting human health and safety; HHS has delegated this authority to the Centers for Disease

Control (CDC). In the absence of Federal regulatory standards, DOD has developed safety and health standards for handling these agents. CDC has reviewed existing data and is proposing recommendations for protecting human health and safety during the transportation and/or disposal of these lethal agents.

The national stockpile of lethal chemical agents includes six chemicals:

GA (Tabun or ethyl N,N-dimethyl phosphoroamidocyanidate, CAS 77–81–6)

GB (Sarin or isopropyl methylphosphonofluoridate, CAS 107–44–8)

VX (O-ethyl-S-(2-diisopropylaminoethyl)-methyl phosphonothiolate, CAS 50782–69–9)

H, HD (Sulfur mustard or di-2-chloroethyl sulfide, CAS 505–60–2)

T (Bis(2-chloroethylthioethyl) ether, CAS 63918–89–8)

L (Lewisite or dichloro 2-chlorovinylarsine, CAS 541–25–3)

The DOD stores these agents in bulk containers and/or munitions at eight locations within the continental United States. A ninth location is in the central Pacific.

Previously, HHS has made recommendations for protecting human health from the adverse effects of acute exposure to agents GB, VX, and mustard. Citizens near depots where chemical weapons are stored have expressed concerns about the potential for delayed effects of acute exposure and about the potential health effects of long-term exposure to low doses of agents. (Here "low dose" means an airborne concentration of agent below the control limits.) To resolve these questions, CDC gathered data on these agents and held an open meeting to discuss the potential delayed effects of acute exposure and of adverse effects of long-term exposure to low doses of these agents. The meeting, announced in the **Federal Register** dated August 20, 1987 (52 FR 31449), was held September 29–30, 1987, in Atlanta, Georgia. The CDC invited consultants and the public. Comments from individuals rather than group comments or consensus were solicited.

Like widely used insecticides, the nerve agents GA, GB, and VX are organic compounds containing phosphorus (organophosphorus compounds). They affect nerves, muscles, and glands by inhibiting acetyl cholinesterase, an enzyme these tissues must have to function properly. Sulfur mustard (H, HD, hereafter referred to simply as "mustard") and Lewisite (L) are vesicants—that is, they cause chemical burns or blisters of the kin and mucous membranes, such as the conjunctiva of the eyes and the mucosa of airways.

Lewisite is an organic compound containing arsenic. A sixth agent, HT, is a mixture of mustard, agent T (bis(2-chloroethylthioethyl) ether), and impurities. Very little is known about the long-term toxicity of agent T. Agent T has much lower volatility than the H with which it is mixed. It is not expected to constitute an airborne hazard unless mustard is also present at concentrations much higher than permitted. Almost all (99.97%) of the vapor released by HT is mustard. HT control limits will therefore be identical with those for HD, with concentrations measured as HD.

During the public meeting on the potential effects of exposure to these agents, concerns that were raised included: Organophosphate-induced delayed neuropathy; electroencephalographic (EEG) or other functional changes following exposure to organophosphates; the carcinogenicity, mutagenicity, and/or teratogenicity of organophosphates; the cumulative effects of organophosphates, decreasing resistance to organophosphorus pesticides; the carcinogenicity, mutagenicity, and teratogenicity of mustard and Lewisite; delayed keratitis (injury to the cornea of the eye) following exposure to mustard; the response time, sensitivity, and specificity of monitors; the amount of agent in the various parts of the storage and demilitarization facilities; the response times and efficacy of abatement procedures in the event of an upset in plant operations or a release from storage, transportation, or incineration; use of historical monitoring in process control; and interactions of agents with other chemicals in the environment.

Published and unpublished reports of all potential adverse effects including carcinogenicity, mutagenicity, and teratogenicity for all agents were considered. Information on human carcinogenicity following wartime exposure to vesicants supplemented experimental data for mustard and Lewisite. Since the acute toxicity of GA and Lewisite had not been reviewed before, it was considered along with the potential long-term health effects. Reports relating delayed keratitis to mustard exposure were evaluated. The reports on delayed neuropathy and on EEG changes associated with poisoning by GB were available. In addition, individuals contributed critical information from their own experience and knowledge.

The ability of organophosphates to cause delayed neuropathy has been tested in domestic chickens, a sensitive indicator species. The chickens are given doses from 20 to more than 100 times the mean lethal dose and, for the chickens to demonstrate this effect, they must be protected from death by pretreatment with atropine or with atropine and an oxime. GB caused neuropathy in chickens only at doses several times greater than the mean lethal dose. Under similar conditions, VX did not induce delayed neuropathy. Neuropathy is considered an unlikely outcome from either acute intoxication with any of the nerve agents or from long-term exposure to them.

None of the nerve agents are mutagenic. Results of recently completed studies on GB and initial reports of studies on VX indicate no teratogenic effect. No evidence suggests that any of these nerve agents are carcinogenic. The EEG changes reported after intoxication with GB were considered to be of questionable significance—given the difficulty of demonstrating such changes and the absence of clinically significant effects even when EEG changes are present.

HHS had not previously reviewed standards for GA. The available information indicates that about twice as much GA as GB is needed to produce acute toxicity. Data for adverse reproductive effects are less complete for GA than for GB. The limited amount of GA present in the stockpile (4 tons) and the remoteness of the area where it will be destroyed (Tooele, Utah) provide further assurances that human health will be protected at the same control concentrations previously set for GB.

Questions related to the nerve agents proved relatively easy to resolve. The information bases are fairly complete, and there appears to be little risk either of adverse health effects from long-term exposure to low doses or of delayed health effects from acute exposure. On the basis of the evidence reviewed, HHS concludes that human health will be adequately protected from exposure to GA, GB, and VX vapor at the concentrations shown in Table 1. Even long-term exposure to these concentrations would not create any adverse health effects. At these concentrations, no detectable reduction in resistance to organophosphorus pesticides would occur.

TABLE 1.—CONTROL LIMITS (MG/M^3) FOR CHEMICAL AGENTS[1]

Agent	General population	Workers
GA, GB	0.000003 (3×10^{-6})	0.0001 (1×10^{-4})
VX	0.000003 (3×10^{-6})	0.00001 (1×10^{-5})
H, HD, HT[2]	0.0001 (1×10^{-4})	0.003 (3×10^{-3})
L	0.003 (3×10^{-3})	0.003 (3×10^{-3})
Averaging time	72 hours	8 hours

[1] Protection against exposure to agents in aerosol and liquid form must be sufficient to prevent direct contact with the skin and eyes.
[2] Data supporting the ability to monitor for mustard at 0.0001 mg/m^3 at all sites should be developed. HT is measured as HD.

The control limits contained in Table 1 are substantially below concentrations at which adverse effects have been observed for mustard and Lewisite. Delayed keratitis and chronic bronchitis are effects that follow acute symptomatic intoxication with mustard and would therefore not be expected at the limits proposed. Mustard is not a teratogen, but it is a mutagen. Because HHS accepts that mustard is a human carcinogen and because some evidence suggests that Lewisite might also be a carcinogen, lower levels of exposure are of potential concern. The available epidemiologic data indicate that mustard is a weak carcinogen when compared with other known human carcinogens, but they do not permit accurate estimation of the carcinogenic potency or the exact degree of the carcinogenic risk with confidence. Quantitative risk assessments prepared by the Oak Ridge National Laboratories and by a community study group at Edgewood, Maryland were considered. On the basis of a review of the methodology, we conclude that the many uncertainties in the method employed preclude its being used to define precisely the acceptable exposure limits to mustard.

Qualitative and quantitative data describing cancer risk were compared with risks faced by workers in industries considered nominally safe. We conclude that the weight of evidence indicates that overall cancer risks for workers exposed to air containing mustard at or below a concentration of 0.003 mg/m^3 for the limited period of destruction (that is, a maximum of 2 to 5 years) are less than current risks of death by trauma in those nominally safe industries. Control of the stack emissions and the work-place air in accordance with the limits for mustard given in Tables 1 and 2 will amply protect a general population 1000 meters or more from a demilitarization site or transportation route.

Exposure to or contact with mustard by any route—respiratory, skin, or oral—should be limited to the extent practicable. This can be done by using appropriate engineering controls, personal protective equipment, and work practices. Concentrations in the work-place environment and surrounding air should be measured and verified by instruments that can reliably detect concentrations at or below the control limits. Rail cars or other transport vehicles should be treated as work places for this purpose. At this time, the most sensitive monitors can reliably measure 0.003 mg/m^3 of mustard and Lewisite in the work-place air. The cycle time for mustard is 8 minutes—that is, the test is automatically repeated every 8 minutes. The cycle time for Lewisite is 12 hours. This level of exposure would be adequate protection for public health. The Army has reported the capability to monitor for mustard at concentrations as low as 0.0001 mg/m^3 using a 12-hour sample time. This capability has been proven under usual ambient conditions at only one site. If it will not delay disposal, it is recommended that such capacity be demonstrated at and used for all sites where mustard will be transported or destroyed. The capacity to conduct such monitoring at all sites with mustard would represent a redundant safety factor.

Toxicologic information concerning Lewisite is sparse. We believe, however, that the proposed control limit, 0.003 mg/m^3, is protective of public health. Lewisite is classed as an organic arsenic compound. The Occupational Safety and Health Administration (OSHA) has promulgated a standard (Permissible Exposure Level or PEL) of 0.5 mg/m^3 for organic arsenic concentrations in work-place air. The U.S. Environmental Protection Agency (EPA) has authority to promulgate regulations for emissions of arsenic or other pollutants into ambient air, but, at present, EPA only has standards applicable to other specific sites or processes. Neither EPA standards, should they be promulgated, nor OSHA standards should be exceeded. The proposed control limits are lower than the existing OSHA occupational standard (0.5 mg/m^3 of organic arsenicals, measured as arsenic) by a factor of 528. The Army should seek, through engineering design and operational controls, to minimize exposure to Lewisite. The facts that Lewisite will be destroyed only at Tooele, Utah, a facility remote from population centers, and that the maximum burning time for destruction of the existing stockpile of Lewisite is estimated to be less than 30 days provide additional assurance that human health will not be endangered.

Certain monitoring criteria are essential because any recommended exposure limit is only as good as the capability to measure and verify the exposure concentrations as they may occur. Specifically, the Army has agreed to provide data to CDC that document accurate and reproducible monitoring for agents at the recommended exposure limits and at each transportation or demilitarization facility monitored.

In summary, the control limits specified in Table 1 for all agents listed are considered protective of human health. The relatively short duration of the disposal program provides an additional margin of safety.

Control limits for stack emissions are primarily an engineering matter. These limits should (a) be attainable by a well-designed, well-constructed, and well-operated incineration facility; (b) give an early indication of upset conditions; and (c) be able to accurately measured in a timely manner. Limits based on these criteria will restrict emissions to concentrations well below those that would endanger health; they will usually prove more restrictive than a limit set on health bases alone. CDC has found that the allowable stack concentrations proposed by the Department of the Army (Table 2), meet the criteria above and are more restrictive than limits set on health bases alone; therefore, CDC recommends no changes in the concentrations. The concentrations must be evaluated by air dispersion modeling of worst-case-credible events and conditions specific to each site to ensure that the control limits for the general population and work-place (Table 1) would not be exceeded as a consequence of releases at or below the allowable stack concentrations.

TABLE 2.—ALLOWABLE STACK CONCENTRATIONS (MG/M^3) FOR CHEMICAL AGENTS

Agent	Maximum allowable stack concentration
GA, GB	0.0003 (3×10^{-4})
VX	0.0003 (3×10^{-4})
H, HD, HT[1]	0.03 (3×10^{-2})
L	0.03 (3×10^{-2})

[1] HT is measured as HD.

Dated: December 16, 1987.

Glenda S. Cowart,

Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 87-29245 Filed 12-21-87; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Circulatory System Devices Panel

Date, time, and place. January 15, 1988, 8:30 a.m., Rm. 703-727A, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m.; open committee discussion, 9:30 a.m. to 2:30 p.m.; closed committee deliberations, 2:30 p.m. to 4 p.m.; Keith Lusted, Center for Devices and Radiological Health (HFZ-450), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7373.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of medical devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before January 8, 1988, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a guidance document for balloon valvuloplasty, and premarket approval applications (PMA's) for one, or possibly two, percutaneous transluminal angioplasty catheters.

Closed committee deliberations. The committee will discuss trade secret and/or confidential commercial or financial information regarding the PMA's listed above. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Ophthalmic Devices Panel

Date, time, and place. January 21 and 22, 1988, 9 a.m., Auditorium, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, January 21, 1988, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 3 p.m.; closed committee deliberations, 3 p.m. to 4 p.m.; open public hearing, January 22, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 3 p.m.; closed committee deliberations, 3 p.m. to 4 p.m.; open committee discussion, 4 p.m. to 5 p.m.; Daniel W.C. Brown, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7320.

General function of committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation. The committee also reviews data on new devices and makes recommendations regarding their safety and effectiveness and their suitability for marketing.

Agenda—Public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before January 2, 1988, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On January 21, 1988, the committee will discuss general issues relating to approvals of premarket approval applications (PMA's) for Nd:YAG lasers and intraocular lenses (IOL's), and may discuss specific PMA's for these devices. If discussion of all pertinent Nd:YAG laser or IOL issues is not completed, discussion will be continued the following day. On January 22, 1988, the committee will discuss PMA's for contact lenses and other devices and requirements for PMA approval.

Closed committee deliberations. On January 21 and 22, 1988, the committee may discuss trade secret or confidential information relevant to PMA's for IOL's Nd:YAG lasers, contact lenses, or other ophthalmic devices. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552(c)(4)).

Orthopedic and Rehabilitation Devices Panel

Date, time, and place. January 22, 1988, 8 a.m., North Auditorium, Health and Human Services Bldg., 330 Independence Ave. SW. (enter at C St. entrance), Washington, DC.

Type of meeting and contact person. Open public hearing, January 22, 1988, 8 a.m. to 9 a.m.; open committee discussion, 9 a.m. to 11 a.m., 12:20 p.m. to 2:30 p.m., and 3:15 p.m. to 5:15 p.m; closed presentation of data, 11 a.m. to 11:30 a.m., 2:30 p.m. to 3 p.m., and 5:15 p.m. to 5:45 p.m; Marie Schroeder, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7156.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulations.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before January 14, 1988, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss premarket approval applications for a porous coated prosthetic hip and a porous coated total knee prosthesis. If time permits, the committee may also discuss a premarket approval application for a prosthetic ligament device or discuss general issues concerning ligament devices.

Closed presentation of data. The committee may review and/or discuss trade secret and/or confidential commercial or financial information relevant to premarket approval applications. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Vaccines and Related Biological Products Advisory Committee

Date, time, and place. January 25 and 26, 8:30 a.m., Bldg. 29, Rm. 115, National Institutes of Health, 8800 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, January 25, 1988, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 2 p.m.; closed committee deliberations, 2 p.m. to 4:30 p.m.; open committee discussion, January 26, 1988, 8:30 a.m. to 10:30 a.m.; closed committee deliberations, 10:30 a.m. to 2 p.m.; Jack Gertzog, Center for Biologics Evaluation and Research (HFN-31), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5455.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of vaccines and related biological products intended for use in the diagnosis, prevention, or treatment of human diseases. The committee also reviews and evaluates the quality and relevance of FDA's research program which provides scientific support for the regulation of these products.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

Open committee discussion. On January 25, 1988, from 8:30 a.m. to 2 p.m., the committee will discuss influenza vaccine formulation for the 1988-89 season. On January 26, 1988, from 8:30 a.m. to 10:30 a.m., the committee will review the intramural research program, Laboratory of Biophysics, Division of Biochemistry and Biophysics, Center for Biologics Evaluation and Research (CBER).

Closed committee deliberations. On January 25, 1988, from 2 p.m. to 4:30 p.m., and on January 26, 1988, from 1 p.m. to 2 p.m., the committee will review trade secret or confidential commercial information relevant to pending license applications and investigational new drugs. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552(c)(4)). On January 26, 1988, from 10:30 a.m. to 12 m., the committee will review part of the intramural research program in CBER. This portion of the meeting will be closed to prevent disclosure of personal information concerning individuals associated with this research program, disclosure of which would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, Rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commerical or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that oridinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols

and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: December 14, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87–29230 Filed 12–21–87; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–620–08–4111–01–24–10]

Delay in Increase in Rental Rates on Simultaneous Oil and Gas Leases Extended

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of rental reduction for simultaneous oil and gas leases with annual rental due dates through February 1, 1989.

SUMMARY: The Secretary of the Interior has granted a rental reduction for an additional year for all simultaneous oil and gas leases with annual rental due dates through February 1, 1989, whose rental rates would increase from $1 to $3 per acre. This action extends the Secretarial decision initially drafted in September 1986 and announced by the **Federal Register** notice published on October 24, 1986 (51 FR 37793). The rental reduction suspension action will continue to be reviewed on an annual basis.

EFFECTIVE DATE: December 22, 1987.

ADDRESS: Inquiries or suggestions should be sent to: Director (620), Bureau of Land Management, Room 602 Premier Building, 18th & C Streets, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Gloria J. Austin, (202) 653–2190.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior announced on December 10, 1987, the decision to continue to grant a rental reduction for an additional year for all simultaneous oil and gas leases with annual rental due dates through February 1, 1989, whose rental rates would increase from $1 to $3 per acre or fraction thereof. In response to the President's message regarding Federal energy assets and lessening the burden on domestic energy production, this action will reduce annual rentals for all simultaneous leases, issued with a normal effective date of March 1, 1982, through March 1, 1984, subject to the rulemaking published on January 20, 1982 (47 FR 2864), which became effective February 19, 1982. The regualtion (43 CFR Part 3103) imposes a $3 per acre annual rate on those leases entering their sixth or subsequent year on which lessees have been paying $1 per acre for the first 5 years.

The regulatory change of January 20, 1982, initiated for the purpose of encouraging diligence through an increased or additional holding cost, would be counterproductive during the present weak domestic energy market and would lead to the return of large numbers of leases to the Federal Government through either relinquishment or failure to pay annual rental. During the first half of FY–1987, Federal oil and gas lessees outside of Alaska allowed approximately 8,700 leases on 12.9 million acres to be returned. This is a 28 percent increase over the number of leases returned during the same period of FY–1986, and a 98 percent increase over the first half of FY–1985. It is anticipated that a rental reduction to $1 per acre or fraction thereof will keep more lands under lease, encourage domestic exploration and allow more economical Federal oil and gas lease development.

This rental reduction is granted by the Secretary of the Interior under section 39 of the Mineral Leasing Act of 1920 (30 U.S.C. 209), and will continue to be reviewed annually to determine whether to extend the policy.

Additionally, any simultaneous oil and gas leases that terminated during their primary term, but were reinstated under the Class II procedures at 43 CFR 3108.2–3, do not revert to the $1 per acre rental rate, but retain the higher rental amount as provided under the terms of the Class II reinstated leases. Further, any simultaneous oil and gas leases for which all or a portion of the lands were determined to be within a known geological structure prior to the beginning of their sixth or subsequent year do not revert to the $1 per acre rental rate and shall require annual rental of $2 per acre or fraction thereof in accordance with 43 CFR 3103.2–2(d).

Date: December 10, 1986.

Donald Paul Hodel,

Secretary of the Interior.

[FR Doc. 87–29223 Filed 12–21–87; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Development Operations Coordination Document; Conoco Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 2825, Block 65, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Cameron and Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on December 11, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Warren Williamson; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2874.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: December 14, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-29234 Filed 12-21-87; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Shell Offshore Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 2279, Block 106, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on December 14, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Acts Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: December 15, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-29242 Filed 12-21-87; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 12, 1987. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by January 6, 1988.

Amy Schlagel,

Acting Chief of Registration, National Register.

ARIZONA

Mohave County

Kingman, *Blakely, Ross H., House (Kingman MRA)*, 519 E. Spring St.

Pima County

Tucson, *El Encanto Estates Residential Historic District*, Roughly bounded by Country Club Rd. Broadway Blvd., Fifth St, & Jones St.

CALIFORNIA

Humboldt County

Ferndal vicinity, *Fern Cottage Historic District*, 2099 Centerville Rd.

Los Angeles County

Hollywood, *La Belle Tour*, 6200 Franklin Ave.

Mendocino County

Ukiah, *Held-Poage House*, 603 W. Perkins St.

San Francisco County

San Francisco, *Engine House No. 31*, 1068 Green St.

San Francisco, *Russian Hill—Macondray Lane District*, Roughly 900-982 Green, 1918-1960 Jones, 15-84 Macondray & 1801-1809 Taylor

San Francisco, *Russian Hill—Paris Block Architectural District*, Roughly 1017-1067 Green St.

San Francisco, *Russian Hill—Valleio Street Crest District*, Roughly 1020-1032 Broadway, 1-49.

Florence, 1728-1742 Jones, 1-7 Russian Hill Pl., 1629-1715 Taylor, & 1000-1085 Vallejo

COLORADO

Denver County

Denver, *Swallow Hill Historic District*, Roughly bounded by Clarkson St., E. Seventeenth Ave., Downing St., & E. Colfax Ave.

DISTRICT OF COLUMBIA

Washington

White—Meyer House, 1624 Crescent Pl., NW.

MAINE

Cumberland County

South Portland, *Spring Point Ledge Light Station (Light Stations of Maine MPS)*, Spring Point Ledge, Portland Harbor

Hancock County

Bass Harbor vicinity, *Bass Harbor Head Light Station (Light Stations of Maine MPS)*, Bass Harbor Head.

Swans Island vicinity, *Burnt Coat Harbor Light Station (Light Stations of Maine MPS)*, Hockamock Head

Winter Harbor vicinity, *Egg Rock Light Station (Light Stations of Maine MPS)*, Egg Rock, in Frenchman Bay

Knox County

Isle Au Haut vicinity, *Isle Au haut Light Station (Light Stations of Maine MPS)*, Robinson Point

North Haven vicinity, *Goose Rocks Light Station (Light Stations of Maine MPS)*, East Entrance, Fox Islands Thorofare

Port Clyde vicinity, *Marshall Point Light Station (Light Stations of Maine MPS)*, Marshall Point, Port Clyde Harbor

Vinalhaven vicinity, *Heron Neck Light Station (Light Stations of Maine MPS)*, Heron Neck, Greens Island

Lincoln County

Boothbay harbor vicinity, *Ram Island Light Station (Light Stations of Maine MPS)*, Ram Island, Boothbay Harbor

Sagadahoc County

Bath vicinity, *Doubling Point Light Station (Light Stations of Maine MPS)*, W side of Arrowsic Island

Bath vicinity, *Doubling Point Range Lights (Light Stations of Maine MPS)*, Fiddler Reach, Arrowsic Island

Georgetown vicinity, *Perkins Island Light Station (Light Stations of Maine MPS)*, *Perkins Island*

Phippsburg vicinity, *Squirrel Point Light Station (Light Stations of Maine MPS*, Squirrel Point, Arrowsic Island

Waldo County

Stockton Springs vicinity, *Fort Point Light Station (Light Stations of MPS)*, Fort Point Rd.

Washington County

Calais vicinity, *Whitlocks Mill Light Station (Light Stations of Maine MPS)*, S bank of St. Croix River

York County

Biddeford Pool vicinity, *Wood Island Light Station (Light Stations of Maine MPS)*, E side of Wood Island.

Cape Porpois vicinity, *Goat Island Light Station (Light Stations of Maine MPS)*, Goat Island, Cape Porpoise Harbor

Kittery Point vicinity, *Whaleback Light Station (Light Stations of Maine MPS)*, Portsmouth Harbor

MARYLAND

Charles County

Hughesvill vicinity, *Truman's Place*, Gallant Green Rd.

MINNESOTA

Hennepin County

Minneapolis, *New Centry Mill (Boundary Increase and Decrease)*, Oak & Fifth Sts.

MISSISSIPPI

Grenada County

Grenada, *Grenada Masonic Temple (Grenada MRA)*, 210 Main St.
Grenada, *Illinois Central Depot (Grenada MRA)*, 643 First St.
Grenada, *Lee-DuBard House (Grenada MRA)*, 317 Third St.
Grenada, *Margin Street Historic District (Grenada MRA)*, Margin St. & part of Line St. between Commerce and Green Sts.
Grenada, *Old Fellow and Confederate Cemetery (Grenada MRA)*, Corner of Cemetery & Commerce Sts.
Grenada, *South Main Historic District (Grenada MRA)*, S. Main St.
Grenada, *Walthall, Sen. Edward C., House (Grenada MRA)*, 73 College Blvd.

MONTANA

Gallatin County

Bozeman, *Gallatin County High School (Bozeman MRA)*, 404 W. Main
Bozeman, *Harris House (Bozeman MRA)*, 502 W. Mendenhall
Bozeman, *Hines House (Bozeman MRA)*, 420 W. College
Bozeman, *House at 714 North Tracy (Bozeman MRA)*, 714 N. Tracy
Bozeman, *House at 818 South Eighth (Bozeman MRA)*, 818 S. Eighth
Bozeman, *Johnson House (Bozeman MRA)*, 506 N. Bozeman
Bozeman, *Krueger House (Bozeman MRA)*, 317 N. Bozeman
Bozeman, *Peterson House (Bozeman MRA)*, 216 N. Wallace

Silver Bow County

Butte, *Hawthorne Grade School (Suburban Schools in Butte TR)*, 3500 White Way.
Butte, *Longfellow Grade School (Suburban Schools in Butte TR)*, 1629 Roosevelt Ave.
Butte, *Madison Grade School (Suburban Schools in Butt TR)*, 45 E. Greenwood

NEBRASKA

Lancaster County

Lincoln, *Lincoln Liberty Life Insurance Building*, 113 N. Eleventh St.
Lincoln, *Metropolitan Apartments*, 502 S. Twelfth St.

NEW YORK

Albany County

Albany, *Broadway—Livingston Avenue Historic District*, Broadway & Livingston Ave.

Dutchess County

Red Hook, *Halfway Diner*, 39 N. Broadway

Nassau County

Port Washington, *Monfort Cemetery*, E of Main St. & Washington Blvd.

Oneida County

Remsen, *Welsh Calvinistic Methodist Church*, Prospect St.

Putnam County

Brewster, *First National Bank of Brewster*, Main St.

Suffolk County

Setauket, *Thompson House*, N. Country Rd.

WYOMING

Natrona County

Powder River, *Chicago and Northwestern Railroad Depot*, 35231 W. Dakota Ave.

Sweetwater County

Reliance, *Reliance School and Gymnasium*, 1321 Main St.

To assist in the preservation of historic properties the 15-day commenting period for the following nomination has been waived.

ARKANSAS

Prairie County

Hazen, *Rock Island Depot*, US 70

[FR Doc. 87-29267 Filed 12-21-87; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

Loging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on December 10, 1987 a proposed Consent Decree in *United States v. Combustion Engineering, Inc., et al.*, Civil Action No. 87CV7449 was lodged with the United States District Court of the Eastern District of Michigan. The proposed Consent Decree concerns control of air pollution at defendant's resource recovery facility in Detroit, Michigan. The proposed Consent Decree requires the defendant to comply with specified limits on emissions of air pollutants.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Combustion Engineering, Inc., et al.*, D.J. Ref. 90-5-2-1-1031.

The proposed consent decree may be examined at the office of the United States Attorney, Eastern District of Michigan, 817 Federal Building, 231 W. Lafayette, Detroit, Michigan 48226, and at the Region 5 Office of the Environmental Protection Agency, Office of Regional Counsel, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Deparment of Justice.

Roger J. Marzulla,

Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 87-29232 Filed 12-21-87; 8:45am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances, Registration; Abbott Laboratories

By Notice dated July 9, 1987, and published in the **Federal Register** on July 17, 1987; (52 FR 27070), Abbott Laboratories, 14th Street and Sheridan Road, Attention: Customer Service D-345, North Chicago, Illinois 60064, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of bulk dextropropoxyphene (9273), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: December 15, 1987.

[FR Doc. 87-29224 Filed 12-21-87; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances, Registration; Eli Lilly Industries

By Notice dated September 16, 1987, and published in the **Federal Register** on September 24, 1987; (52 FR 35973), Eli

Lilly Industries, Inc., Chemical Plant, Kilometer 146.7, State Road 2, Mayaquez, Puerto Rico 00708, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of bulk dextropropoxyphene (9273), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: December 15, 1987.

[FR Doc. 87-29227 Filed 12-21-87; 8:45 am].

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances Application; Hoffmann-La Roche Inc.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 12, 1987, Hoffmann-La Roche Inc., 340 Kingsland Street, Nutley, New Jersey 07110, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I.
Alphaprodine (9010)	II.
Levorphanol (9220)	II

Any other such applicant and any perons who is presently registered with DEA to manufacturer such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than January 21, 1988.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: December 15, 1987.

[FR Doc. 87-29228 Filed 12-21-87; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Registration; Johnson Matthey, Inc.

By Notice dated September 1, 1987, and published in the **Federal Register** on September 8, 1987; (52 FR 33881), Johnson Matthey, Inc., Pharmaceuticals Department, 2002 Nolte Drive, West Deptford, New Jersey 08066, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of alfentanil (9737), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: December 15, 1987

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 87-29225 Filed 12-21-87; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances, Registration; Minn-Dak Growers Assoc.

By Notice dated September 16, 1987, and published in the **Federal Register** on September 24, 1987; (52 FR 35973), Minn-Dak Growers Association, Highway 81 North, P.O. Box 1276, Grand Forks, North Dakota 58206-1276, made application to the Drug Enforcement Administration to be registered as an importer of marihuana (7360), a basic class of controlled substance listed in Schedule I. This application is exclusively for the importation of marihuana seed which will be rendered non-viable and used as bird feed.

No comments or objections have been received. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, § 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

Dated: December 15, 1987.

[FR Doc. 87-29226 Filed 12-21-87; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary of Labor's Order 7-87]

Delegation of Authority and Assignment of Responsibilities for Employment Standards Programs

December 11, 1987.

1. *Purpose.* To delegate authority and assign responsibilities to the Assistant Secretary for Employment Standards.

2. *Background.* Heretofore authority for carrying out activities in connection with the administration of employment standards programs had been delegated to a Deputy Under Secretary for Employment Standards. An Assistant Secretary for Employment Standards position has now been established to replace the position of Deputy Under Secretary for Employment Standards. Consistent with that decision, this Order delegates authority of Secretary's Order 6-84 which was previously vested in the Deputy Under Secretary to the Assistant Secretary. This Order also incorporates those responsibilities under Sections 216(g)(2) and 274A of the Immigration and Nationality Act (INA).

3. *Delegation of Authority and Assignment of Responsibilities.*

a. *The Assistant Secretary for Employment Standards* is hereby delegated authority and assigned responsibility, except as hereinafter provided, for carrying out in the employment standards policies, programs, and activities of the Department of Labor, including those functions to be performed by the Secretary of Labor under:

(1) The Fair Labor Standards Act of 1938 (FLSA), as amended, 29 U.S.C. 201 *et seq.*, including the issuance of child labor hazardous occupation orders and other regulations concerning child labor standards. Authority and responsibility for the Equal Pay Act, section 6d of the FLSA, were transferred to the Equal Employment Opportunity Commission (EEOC) on July 1, 1979, pursuant to the

President's Reorganization Plan No. 1 of February 1978.

(2) The Walsh-Healey Public Contracts Act of 1936, as amended, 41 U.S.C. *et seq.*, except those provisions relating to safety and health delegated to the Assistant Secretaries for Occupational Safety and Health and Mine Safety and Health.

(3) The Service Contract Act of 1965, as amended, 41 U.S.C. 351 *et seq.*, except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health.

(4) The Davis-Bacon Act, as amended, and any laws now existing or subsequently enacted, providing for prevailing wage findings by the Secretary in accordance with or pursuant to the Davis-Bacon Act, as amended, 40 U.S.C. 276a–f; the Copeland Act, 40 U.S.C. 276c; Reorganization Plan No. 14 of 1950; and, the Tennessee Valley Authority Act, 16 U.S.C. 831.

(5) The Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 327 *et seq.*, except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health.

(6) Title III of the Consumer Credit Protection Act, 15 U.S.C. 1671 *et seq.*

(7) The State and Local Fiscal Assistance Act (Revenue Sharing), as amended, 31 U.S.C. 1221 *et seq.*, as it pertains to prevailing wage rates under the Davis-Bacon Act, as amended, 40 U.S.C. 276a–f.

(8) The labor standards provisions contained in sections 5(i), 5(j), and 7(g) of the National Foundation on the Arts and Humanities Act, as amended, 20 U.S.C. 954(i), 954(j), and 956(g), except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health.

(9) The Migrant and Seasonal Agricultural Worker Protection Act of 1983, Pub. L. 97–470, 29 U.S.C. 1801 *et seq.*

(10) Any remaining activity under the Farm Labor Contractor Registration Act of 1963, as amended and repealed, Pub. L. 88–583, 78 Stat. 920.

(11) Section 3 (relating to education and research) and Section 5 (relating to studies) of the Age Discrimination in Employment Act of 1967 (ADEA), as amended, 29 U.S.C. 621 *et seq.* Authority and responsibility for the remaining provisions of ADEA were transferred to the EEOC on July 1, 1979, pursuant to the President's Reorganization Plan No. 1 of February 1978.

(12) Section 1450(i) of the Safe Drinking Water Act, Pub. L. 93–523, 42 U.S.C. 300 j–9(i).

(13) Section 507 of the Federal Water Pollution Prevention and Control Act, Pub. L. 89–234, 33 U.S.C. 1367.

(14) Section 23 of the Toxic Substances Control Act, 15 U.S.C. 2622.

(15) Section 7001 of the Solid Waste Disposal Act, 42 U.S.C. 6971.

(16) Section 322 of the Clean Air Act, 42 U.S.C. 7622.

(17) Section 210 of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. 5851.

(18) Section 110 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9610.

(19) Such additional Federal Acts as may from time to time confer upon the Secretary of Labor duties and responsibilities similar to: the Fair Labor Standards Act, 29 U.S.C. 201 *et seq.*; or the Davis-Bacon Act, as amended, 40 U.S.C. 276a-f, and related Acts; or employee protection responsibilities similar to those listed under 4a(12)–(18) above.

(20) The Federal Employees' Compensation Act, as amended and extended, 5 U.S.C. 8101 *et seq.*, except 8149 as it pertains to the Employees' Compensation Appeals Board.

(21) The Longshore and Harbor Worker's Compensation Act, as amended and extended, 33 U.S.C. 901 *et seq.*, except: 33 U.S.C. 921(b) as it applies to the Benefits Review Board; 33 U.S.C. 941 relating to activities assigned to the Assistant Secretary for Occupational Safety and Health; and, 33 U.S.C. 919(d) with respect to hearing examiners in the Office of Administrative Law Judges.

(22) Title IV of the Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. 901 *et seq.*

(23) Title 38, U.S.C. 2012, except for monitoring of the Federal contractor job listing activities under section 2012(a) and the annual Federal contractor reporting obligations under 2012(d) delegated to the Assistant Secretary for Veterans' Employment and Training.

(24) Sections 501(a), 501(f), 502, and 503 of the Rehabilitation Act of 1973, as amended, Pub. L. 93–112, and Executive Order 11758.

(25) Executive Order 11246, as amended by Executive Order 11375 and Executive Order 12086—Federal Contract Compliance.

(26) Section 216(g)(2) (relating to the H-2A program) and section 274A(b)(3) (relating to employment eligibility verification and related recordkeeping) of the Immigration and Nationality Act (INA) of 1952, as amended, Pub. L. 82–414, as amended by Pub. L. 99–603.

b. *The Assistant Secretary for Employment Standards* is hereby delegated authority to designate appropriate officers of the Employment Standards Administration to perform functions provided under section 274A(b)(3) of the Immigration and Nationality Act (INA) of 1952, as amended, Pub. L. 82–414, as amended by Pub. L. 99–603.

c. *The Solicitor of Labor* shall have the responsibility for providing legal advice and assistance to all officers of the Department relating to the administration of the statutes and Executive orders listed in paragraph 4a above. The bringing of legal proceedings under the statutes and Executive orders listed in paragraph 4a above, the representation of the Secretary of Labor and/or other officials of the Department of Labor, and the determination of whether such proceedings or representation is appropriate in a given case are delegated exclusively to the Solicitor of Labor.

4. *Reservation of Authority.*

a. The submission of reports and recommendations to the President and the Congress concerning the administration of statutes and Executive orders listed in paragraph 4a above is reserved to the Secretary.

b. The jurisdiction of the Wage and Appeals Board, as presently described in Secretary's Order 24–70 (36 FR 306) and its rules of practice (29 CFR Part 7), is reserved, and the Board shall be authorized to review decisions under this Order relating to the Davis-Bacon Act and related laws within the scope of its jurisdiction, and relating to the Contract Work Hours and Safety Standards Act (except under contracts subject to the Service Contract Act).

c. The jurisdiction of the Board of Service Contract Appeals, as presently described in 29 CFR Part 8 and its rules of practice is reserved, and the Board shall be authorized to review decisions under this Order relating to the Service Contract Act and to the Contract Work Hours and Safey Standards Act under contracts subject to the Service Contract Act.

d. The determination of the application of the ineligible list provisions of section 3 of the Walsh-Healey Public Contracts Act, 41 U.S.C. 37, is reserved to the Secretary.

e. The determination of the

application of the ineligible list provisions of section 5 of the Service Contract Act, 41 U.S.C. 354, is reserved to the Secretary, with respect to all cases in which recommendations of administrative law judges were issued prior to March 21, 1984.

f. Decisions under section 103(b)(2) and 503(b)(2) of the Migrant and Seasonal Agricultural Worker Protection Act which permit the Secretary to modify or vacate the decision of an administrative law judge shall also be reserved to the Secretary.

g. Final decisions under paragraph 4(a)(12)–(18), and related final decisions which may be made under paragraph 4(a)(19), are reserved to the Secretary.

5. *Directive Affected.* Secretary's Order 6–84 is canceled.

6. *Effective Date.* This Order is effective immediately.

Dennis E. Whitfield.

Deputy Secretary of Labor.

[FR Doc. 87–29288 Filed 12–21–87; 8:45am]

BILLING CODE 4510–23–M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 4, 1988.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 4, 1988.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC, this 14th day of December 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Alcan Rolled Products, Co. (company)	Terre Haute, IN	12/14/87	12/2/87	20,325	Aluminum.
Cortelco (workers)	Corinth, MS	12/14/87	12/1/87	20,326	Telephones.
Diebold, Inc. (workers)	Hebron, OH	12/14/87	11/30/87	20,327	Bank teller machines.
Eaton Corp. Fluid Power Division (U.A.W.)	Marshall, MI	12/14/87	11/3/87	20,328	Viscous fan drives.
Editorial American, S.A. (workers)	Virginia Gardens, FL	12/14/87	10/26/87	20,329	Magazines.
Format Printing Co. (CCIU)	Totowa, NJ	12/14/87	12/1/87	20,330	Business forms.
Hanover Dowel (workers)	Bethel, ME	12/14/87	12/3/87	20,331	Dowels.
Hydreco, Inc. (IAM)	Kalamazoo, MI	12/14/87	12/3/87	20,332	Pumps & motors.
Ken Wing Manufacturing Co., Inc. (ILGWU)	New York, NY	12/14/87	12/3/87	20,333	Sportswear.
Motor Wheel Corp. (AIW)	Lansing, MI	12/14/87	12/2/87	20,334	Wheels.
Northeast Wire Co. (UER&MWA)	Holyoke, MA	12/14/87	12/2/87	20,335	Wire.
Raymark (workers)	Stratford, CT	12/14/87	12/2/87	20,336	Clutches & brakes.
Stone Container Corp. (workers)	Bristol, TN	12/14/87	11/19/87	20,337	Paper bags.
Universal Producing, Co. (IAM&AW)	Fairfield, IA	12/14/87	11/25/87	20,338	Bags.

[FR Doc. 87–201289 Filed 12–21–87; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–17,406]

Delco Systems Operations, Culpeper, VA; Negative Determination on Remand

Pursuant to the U.S. Court of International Trade remand of November 5, 1987 in *Former Employees of Delco Systems Operations* v. *the United States* (USCIT No. 86–12–01545), and on further review, it is recommended that the Department's original denial of trade adjustment assistance for workers for Delco Systems Operations, Culpeper, Virginia be reaffirmed.

The Diesel Division of General Motors (DDGM) in Canada was awarded a contract by the U.S. Department of Defense to build several different models of light armored vehicles. One of the models was the LAV–25MC. The LAV–25MC required gun turrets the production of which was exclusively subcontracted to Delco Systems Operations in Culpeper, Virginia in order to increase the domestic labor content provisions of the contract. DDGM in Canada did not simultaneously produce finished gun turrets with the Culpeper facility. The Culpeper facility did not produce gun turrets for anyone else but DDGM in Canada.

Company officials confirmed investigative findings that the workers at Culpeper produced the finished gun turrets for LAV–25MC vehicles. The gun turrets were sold and shipped under contract to DDGM in Canada where they were mounted on the LAV–25MC vehicles which were imported into the United States by the U.S. Government. Company officials stated that the Culpeper facility was the only source of supply for gun turrents for the LAV–25MC vehicles until the facility closed in October 1985 and its work was consolidated with that of DDGM's plant in London, Ontario. The Culpeper facility did not produce gun turrets for anyone else. The contract under which Delco Systems Operations produced gun turrets provided a closed market where imports of other gun turrets could not be implicated.

In the Court's remand, plaintiffs object to the Department's application of *U.S. Shoe Workers of America, AFL–CIO* v. *Bedell,* 506 F.2d 174 (D.C. Cir. 1974) to this case because "the relationship of shoe counters to shoes is not analogous to the relationship of gun turrets to light armored vehicles. Plaintiffs argue that "all shoe counters are, of necessity, a part of shoes; all gun turrets are not, of necessity, a part of light armored vehicles." Plaintiffs' argument falls short

on at least two accounts. First, company officials confirmed the Department's finding that all the gun turrets produced at Culpeper were used for mounting on the LAV-25MC vehicle. All LAV-25MC vehicles were sold with turrets. Second, the gun turrets had no purpose in existing separately by themselves and none were imported into the United States—save one for warranty check-out by Delco Systems Operations.

Plaintiffs allege that the Department is inconsistent in the case at hand with respect to articles constituting a necessary part of or were a necessary factor in the production of a product. To support this allegation, the plaintiffs cite certain trade adjustment assistance cases where the Department did not consider the necessary article as a component. In *Gropper* v. *Donovan; Machine Printers & Engravers Ass'n* v. *Marshall,* and in *Dan Stipe* v. *U.S. Department of Labor* the Department determined, respectively, that imported knit fabric garments did not compete with domestic finished fabric used for production of knit fabric garments; that imported textile fabrics did not compete with domestically produced engraved rollers and screens used to print designs on fabric; and imported raw steel did not compete with domestic steel products such as tunnel liners and sectional plate. Each of these products in the cases cited above has a domestic market in which to test the increased import criterion. This is not the case for custom made gun turrets produced domestically and exported to Canada under an exclusive contract.

Findings on remand show that the gun turrets produced at Culpeper were produced to exact specifications for mounting on the LAV-24MC vehicle. Workers at Culpeper did not produce the LAV-25MC vehicle but only LAV-25MC gun turrets which had no market in themselves except with DDGM of Canada for mounting on the vehicle. The LAV-25MC vehicles are not interchangeable or substitutable with finished gun turrets produced for that vehicle. Accordingly, LAV-25MC vehicles are not like or directly competitive with gun turrets.

Further, the gun turrets produced at Culpeper were produced for an export market and although the gun turrets reentered the United States they did so as a component product incorporated into an altogether different finished article. Accordingly, sales of gun turrets to an export market would not provide a basis for certification.

In the case at hand, the gun turret component is custom made, under contract, for the LAV-25MC vehicle in a market closed by a contract. Production schedules had to be met. When the strike occurred in June, 1985 decisions were made that consolidated the Culpeper production in October 1985 with that of DDGM in Canada. Whether other gun turrets are or are not imported is a moot question since only gun turrets produced under contract by Delco in Culpeper to increase the domestic labor content provisions of the contract were used for mounting of the LAV-25MC vehicle prior to the consolidation.

Further, the Trade Act of 1974 provides benefits to workers when the Department can substantiate that increased imports of articles like or directly competitive with those produced by the workers' firm contributed importantly to decreased sales and/or production and decreased employment at the firm. The findings show that the decreased sales and production criterion of Section 222 of the Trade Act was not met in the period immediately preceding the strike. The strike began in early June, 1985. The findings show increased sales and production in both quantity and value in the first six months of 1985 compared to the same period in 1984. Workers can only receive trade adjustment assistance for separations resulting from a lack of work—not for entering a strike and voluntarily removing themselves from employment. Under the GM-UAW agreement settling the strike, GM workers at Culpeper were able to relocate to Delco Marine (a part of GMs commercial automobile operations) in Fredericksburg, Virginia.

Conclusion

After reconsideration on remand, I reaffirm the original denial of eligibility to apply for adjustment assistance for former workers of Delco Systems Operations, Culpeper, Virginia.

Signed at Washington, DC, this 14th day of December 1987.

Robert O. Deslongchamps;

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-29290 Filed 12-21-87; 8:45 am]

BILLING CODE 4510-30-M

Minneapolis Electric Steel Casting Co. et al.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period December 7, 1987–December 11, 1987.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firms, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-20, 169; Minneapolis Electric Steel Castings Co., Minneapolis, MN

TA-W-20, 161; Facet Enterprises, Inc., Murfreesboro, NC

TA-W-20, 174; Bardons & Oliver, Inc., Cleveland, OH

TA-W-20, 159; Combustion Engineering, Inc., Monongahela, PA

TA-W-20, 082; Powerex, Inc., Auburn, NY

TA-W-20, 175; Castchem, Inc., Muse, PA

TA-W-20, 176; Castamerica, Inc., Pittsburgh, PA

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-20, 179; Eureka Crude Purchasing, Inc., Eureka, KS

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-20, 170; Navistar International, Waukesha, WI

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-20, 192; Shanhouse Outerwear, Inc., Magnolia, AR

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20, 182; General Motors Corp., BOC Janesville, Janesville, WI

Increased imports did not contribute importantly to workers separations at the firm.

Affirmative Determinations

TA-W-20, 165; Kaiser Aluminum & Chemical Corp., Halethorpe Works, Baltimore, MD

A certification was issued covering all workers of the firm separated on or after September 28, 1986.

TA-W-20, 171, Nor East Plastics, Elmira, NY

A certification was issued covering all workers of the firm separated on or after September 29, 1986.

TA-W-20, 200; White Sands Beachwear, Paterson, NJ

A certification was issued covering all workers of the firm separated on or after October 6, 1986 and before June 8, 1987.

TA-W-20, 162; Climate Master, Utica, NY

A certification was issued covering all workers of the firm separated on or after June 1, 1987.

TA-W-20, 225; Jackes-Evans Manufacturing Co., St. Louis, MO

A certification was issued covering all workers of the firm separated on or after October 12, 1986.

TA-W-20, 054; General Motors Corp., Truck & Bus, Flint, MI

A certification was issued covering all workers of the utility vehicle and station wagon-type truck assembly line at the Flint, Michigan Truck and Bus Division separated on or after August 17, 1986 and before October 30, 1989.

TA-W-20, 210; General Electric Co., Ohio Coil Service, Newcomerstown, OH

A certification was issued covering all workers of the firm separated on or after October 5, 1986.

TA-W-20, 172; Sanyo Manufacturing Corp., Forrest City, AR

A certification was issued covering all workers of the firm separated on or after September 24, 1986.

I hereby certify that the aforementioned determinations were issued during the period December 7, 1987-December 11, 1987. Copies of these determinations are available for inspection in Room 6434, US Department of Labor, 601 D Street NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Dated: December 15, 1987.

[FR Doc. 87-29291 Filed 2-21-87; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted on or before January 21, 1988.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202-786-0233) and Ms. Elaina Norden, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., Room 3208, Washington, DC 202503 (202-395-7316).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202) 786-0233 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Revisions

Title: Applications and Instructions Forms for the Publication Subvention Category

Form Number: Not applicable

Frequency of Collection: Annual

Respondents: Publishers of works in the humanities

Use: Application for funding

Estimated Number of Respondents: 149 per year

Estimated Hours for Respondents to Provide Information: 24 per respondent.

Susan Metts,

Assistant Chairman for Administration.

[FR Doc. 87-29258 Filed 12-21-87; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-316]

Indiana and Michigan Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License DPR-74, issued to Indiana and Michigan Power Company (the licensee), for the Donald C. Cook Nuclear Plant, Unit 2, located in Berrien County, Michigan.

Environmental Assessment

Identification of Proposed Action: The amendment would revise the provisions in the Technical Specifications to extend 18-month surveillances from December 31, 1987 to the refueling outage currently scheduled to begin in early 1988 for response-time testing for reactor trip and engineering safety features (ESF) instrumentation; response testing of equipment to ESF signals; reactor vessel level indication calibration; auxiliary feedwater system testing, including channel functional testing of loss of main feedwater pump signal; and diesel generator testing, including relief valve testing and essential service water valve testing. The licensee's application for amendment was dated October 28, 1987.

The Need for the Proposed Action: The proposed amendment is needed to allow certain surviellances and tests to be delayed starting from December 31, 1987 and until the refueling outage currently scheduled to begin in early 1988. If the extension is not granted, the D.C. Cook Unit 2 must be shut down or placed in a condition where an unwarranted reactor trip would be increasingly possible. The extension will allow the plant to continue operation during a period of increased demand.

Environmental Impacts of the Proposed Action: The proposed

amendment will extend the period of certain surveillances by approximately 6 months beyond the technical specification requirement of 18 months. The D.C. Cook Unit 2 has been operating at reduced power (80% of full power) to further limit the steam generator tube degradation. This reduced power has extended the fuel cycle and has made it necessary to conduct the surveillances either at power and increase the likelihood of inadvertent reactor trip or at an early shutdown during an increased power demand period. The instrumentation involved has been shown in the past to be reliable and any problems that develop during the extension period will be dealt with in accordance with Technical Specification requirements. Extending the surveillance period will not significant affect operations nor create accidents (or unwarranted transients). Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed amendment.

The proposed amendment does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Alternatives to the Proposed Action: Since the Commission has concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated. The bounding alternative, however, would be to require an early shutdown with subsequent restart to finish the fuel cycle. This action would create environmental impacts from the additional radioactive wastes (reactor coolant system cleanup) generated as the result of a shutdown and would also result in increased costs for replacement power, etc., without a clear benefit from performing the surveillance tests as scheduled. Requiring the surveillances to be performed at power could result in an inadvertent reactor trip which would have the same effect plus increasing the probability of an accident by challenging safety systems.

Alternative Use of Resources: These actions involve no use of resources not previously considered in the Final Environmental Statement related to operation of the D.C. Cook Nuclear Plant.

Agencies and Persons Consulted: The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare and environmental impact statement for the proposed amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated October 28, 1987 which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Bethesda, Maryland this 17th day of December 1987.

For the Nuclear Regulatory Commission.

David L. Wigginton,

Acting Director, Project Directorate III-3, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 87-29306 Filed 2-21-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301

Wisconsin Electric Power Co., Point Beach Nuclear Plant, Unit Nos. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission or staff) is considering approval of a procedure to dispose of certain very low level radioactive waste pursuant to 10 CFR 20.302 as requested by Wisconsin Electric Power Company (the licensee) for Point Beach Nuclear Plant, Units 1 and 2, located in Manitowoc County, Wisconsin.

Environmental Assessment

Identification of Proposed Action: The proposed action would approve the periodic removal and on-site disposal of slightly radioactive sludge. The materials involved in this sludge disposal are the residual solids remaining in solution upon completion of the aerobic digestion sewage treatment process at Point Beach Nuclear Plant (PBNP). Wash basins located in the controlled area of the plant are believed to be the source of the very small quantity of radionuclides observed in the sludge. Six sites surrounding PBNP and owned by the licensee would be used for disposal of the sludge. The sludge would be plowed, disked, injected or otherwise incorporation into the surface soil layer. The proposed action is more fully discussed in the licensee's letter dated July 14, 1987 as supplemented by letter dated August 6 and October 8, 1987.

Need for Proposed Action: The waste involved in this disposal process consists of the residual solids remaining in solution upon completion of the aerobic digestion sewage treatment process utilized in PBNP. The PBNP sewage treatment plant issued in process waste water from the plant sanitary and potable water systems. These systems produce nonradioactive waste streams with the possible exception of wash basins located in the radiologically controlled area of the plant. These wash basins are believed to be the primary source of the extremely small quantities of radionuclides in the sludge. The sewage sludge generated at PBNP is allowed to accumulate in the sewage plant digestor and aeration basin. Two to four times annually, depending on work activities and corresponding work force at PNBP, the volumes of the sludge in the digestor and aeration basin needs to be reduced to allow continued efficient operation of the treatment facility. The total volume of sludge removd during each disposal operation is typically on the order of 15,000 gallons. The maximum capacity for the entire PBNP treatment facility and hence the maximum disposal volume is about 30,000 gallons. In the case of a maximum capacity disposal doses would not necessarily increase in proportion to the volume, since more than one disposal site may be used.

Trace amounts of radionuclides have been identified in PBNP sludge currently being stored awaiting disposal. The radionuclides identified and their concentrations in the sludge are summarized below:

Nuclide	Concentration (microcurie/cc)
Co-60	2.33E-07
Cs-137	1.50E-07

The total activity of the radionuclides in the stored sludge, based on the identified concentrations and a total volume of 15,000 gallons of sewage sludge, as follows:

Nuclide	Activity (microcuries)
Co-60	13.2
Cs-137	8.5

These concentrations and activities are representative of past and future values of concentrations and activities of radionuclides in the sludge which has been or is to be land spread.

Environmental Impacts of the Proposed Action: The rate of sewage sludge application on each of the six proposed sites will be monitored to insure doses are maintained within applicable limits. These limits require doses to the maximally exposed member of the general public to be maintained less than 1 mrem/year due to the disposal material. In addition, NRC guidance requires doses of less than 5 mrem/year to an inadvertent intruder.

Specifically, the radionuclide concentrations in the sludge shall be determined prior to each disposal by obtaining three representative samples from each of the sludge storage tanks. The samples shall be counted utilizing a GeLi detector and multichannel analyzer with appropriate geometry. The detection system is routinely calibrated and checked to ensure the lower limits of detection are within values specified in the Radiological Effluent Technical Specifications (RETS).

To insure the samples are representative of the overall concentration in the storage tanks, the radionuclide concentration determination for each of the three samples shall be analyzed to insure each sample is within two standard deviations of average value of three samples. If this criteria is not met, additional samples will be obtained and analyzed to insure a truly representative radionuclides concentration is utilized for dose calculations and concentration limit determinations. The average of all statistically valid concentration determinations will be utilized in determining the storage tank concentration values.

The radionuclides identified in the sludge, along with their respective concentrations, will be compared to concentration limits prior to disposal. The methodology discusses in Appendix F of the licensee's October 8, 1987 letter will be used in determining compliance with the proposed concentration limit. The total activity of the proposed disposal will be compared to the proposed activity limit as described in Appendix F.

In the concentration and activity limit criteria are met, the appropriate exposure pathways (as described in Appendix D of the licensee's October 8, 1987 letter) will be evaluated prior to each application of sludge. These exposures will be evaluated to insure the dose to the maximally exposed individual will be maintained less than 1 mrem/year and the dose to the inadvertent intruder is maintained less than 5 mrem/year. The exposure will be calculated utilizing the methodology used in Appendix E of the licensee's October 8, 1987 letter, including the current activity to be landspread along with the activity from all prior disposal. The remaining radioactivity from prior disposals will be corrected for radiological decay prior to performing dose calculations for the meat, milk, and vegetable ingestion pathways, the inhalation of resuspended radionuclides, and all pathways associated with a release to Lake Michigan. The residual radioactivity will be corrected for radiological decay and, if appropriate, the mixing of the radionuclides in the soil by plowing prior to performing external exposure calculations.

To assess the doses received by the maximally exposed individual and the inadvertent intruder, six credible pathways have been identified for the maximally exposed individual and four credible pathways for the inadvertent intruder. The identified credible pathways are described in Appendix D of the licensee's October 8, 1987 letter.

Calculations detailed in Appendix E of the licensee's October 8, 1987 letter demonstrate the disposal of the currently stored PBNP sewage sludge would result in exposures below these limits. The total annual exposure to the maximally exposed individual based on the identified exposure pathways is equal to 0.072 mrem. The dose to a hypothetical intruder assuming an overly conservative occupancy factor of 100% is calculated to be 0.115 mrem/year. By definition, the inadvertent intruder would not be exposed to the processed food pathways (meat and milk).

The calculation methodology used in determining doses for the proposed disposal of sludge stored at PBNP shall be utilized prior to each additional land application to insure doses are maintained less than those proposed by NRC. This calculation will include radionuclides disposed of in previous sludge applications. The activity from these prior disposals will be corrected for radiological decay prior to performing dose calculations for that meat, milk, and vegetable ingestion pathways, the inhalation of resuspended radionuclides, and all pathways associated with a potential release to Lake Michigan. The residual radioactivity will be corrected for radiological decay and, if applicable, the mixing of radionuclides in the soil prior to performing external exposure calculations. In addition, the dose to a farmer potentially leasing more than one application site will be addressed by summing the doses received from the external exposure from a ground plane source and resuspension inhalation pathways for each leased site. In addition, the maximum site-specific dose due to the other pathways identified in Appendix D to the licensee's October 8, 1987, letter will be utilized in the total exposure estimation.

The licensee's letter dated October 8, 1987 includes an analysis and evaluation of pertinent information as to the nature of the environment, including topographical, geological, meteorological and hydrological characteristics; usage of ground and surface waters in the general area; the nature and location of other potentially affected facilities; and procedures to be observed to minimize the risk of unexpected or hazardous exposures.

Based on a review and evaluation of the licensee's application, the staff concludes that the possible radiation risks to members of the general public as a result of such disposal would be well below regulatory limits.

Alternatives to the Proposed Action: The "no action" alternative is to deny the licensee's request for approval; namely, that other, more costly alternatives for disposal of the sludge would be necessary to support continued plant operation. This would entail packaging the sludge for transport to the disposal in a licensed waste burial site. The "no action" alternative also entails increased risks during transportation associated with offsite shipments, whereas transport for the proposed action is for very short distances across licensee-owned property.

Agencies and Persons Consulted: The staff reviewed the licensee's request and has not consulted other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed action.

Based upon this environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the licensee's application dated July 14, 1987, as supplemented on August 6 and October 8, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Dated at Bethesda, Maryland, this 16 day of December 1987.

For the Nuclear Regulatory Commission.

Kenneth E. Perkins,

Director, Project Directorate III-3, Division of Reactor Projects.

[FR Doc. 87-29307 Filed 12-21-87; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Reactor Operations; Meeting

The ACRS Subcommittee on Reactor Operations will hold a meeting on January 5, 1988, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to the public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, January 5, 1988—1:00 p.m. until the conclusion of business

The Subcommittee will be briefed on, and discuss problems involved with, in-service testing.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Herman Alderman (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: December 15, 1987.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 29302 Filed 12-21-87; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Reactor Designs; Meeting

The ACRS Subcommittee on Advanced Reactor Designs will hold a meeting on January 6, 1988, Room 1046, 1717 H Street NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, January 6, 1988—8:30 a.m. until the conclusion of business

The Subcommittee will review and comment on the draft Commission paper that will be prepared by the NRC Staff regarding the severe accidents and containment issues for the DOE-sponsored advanced reactor designs.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. M. El-Zeftawy (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: December 15, 1987.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 87-29303 Filed 12-21-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-440A]

Cleveland Electric Illuminating Co. et al; Request To Suspend the Perry Nuclear Power Plant Antitrust License Conditions

By application dated September 18, 1987, the Ohio Edison Company (Ohio Edison or Licensee) requested the Director of the Office of Nuclear Reactor Regulation to amend the Perry Nuclear Power Plant (Perry) operating license, No. NPF-58, issued to Cleveland Electric Illuminating Co., Toledo Edison Co., Dequesne Light Co. and Ohio Edison.

In its application, Ohio Edison suggests that the production cost advantages associated with nuclear power forecasted during the 1970's have not been realized by Perry in the 1980's. Licensee states that the antitrust license conditions attached to the Perry operating license were based on the premise that nuclear power would provide an economic or competitive advantage to its owners. Licensee concludes that because the production cost advantages associated with nuclear power have disappeared the rationale for attaching antitrust license conditions to Perry has also disappeared and consequently, the license conditions as they apply to Ohio Edison should be suspended.

Pursuant to 10 CFR 2.101 and 50.90, the staff is publishing receipt of Licensee's request to amend the Perry operating license in the **Federal Register** and requesting public comment. A copy of the application for amendment has been forwarded to the Attorney General for his review and comment and a copy of this notice is being forwarded to counsel for Cleveland Public Power, Inc. (formerly the Municipal Electric Light Department of the City of Cleveland, Ohio). Moreover a copy of the application for amendment will be available for pubic inspection in the local public document room, Perry Public Library, 3753 Main Street, Perry, Ohio 44081 and at the Commission's Public Document Room located at 1717 H Street NW., Washington, DC 20555 for inspection by any interested party.

Any person who wishes to express views pursuant to the antitrust issues

raised in this amendment request, should submit said views within 45 days of the initial publication of this Notice in the **Federal Register** to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief, Policy Development and Technical Support Branch, Office of Nuclear Reactor Regulation.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,

Acting Chief, Policy Development and Technical Support Branch, Program Management, Policy Development and Analysis Staff, Office of Nuclear Reactor Regulation.

[FR Doc. 87-29308 Filed 12-21-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos.: 50-373, and 50-374]

Commonwealth Edison Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-11 and NPF-18 issued to Commonwealth Edison Company (the licensee), for operation of LaSalle County Station, Units 1 and 2 located in LaSalle County, Illinois.

The amendments would revise Technical Specification 4.0.2.b such that "the combined time interval for any 3 consecutive surveillance intervals shall not exceed 3.25 times the specified surveillance interval" would not be applicable to refuel interval surveillances. With the advent of longer fuel cycles and less frequent and longer outages, LaSalle County Station is encountering difficulty completing surveillances required at a refueling interval by Technical Specifications. This will alleviate the immediate problem and prevent recurrence of this specific situation for successive operating cycles.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By January 21, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first perhearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given DATAGRAM Identification Number 3737 and the following message addressed to Daniel R. Muller: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel—Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Joseph Gallo, Isham, Lincoln, and Beale, 1150 Connecticut Ave. NW., Suite 1100, Washington, DC 20036, attorney for the license.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated December 4, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Dated at Bethesda, Maryland this 15th day of December 1987.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III-2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 87-29309 Filed 12-21-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 55-60402; ASLBP No. 87-552-03-SP]

David W. Held (Senior Operator License for Beaver Valley Nuclear Power Station, Unit 1); Oral Presentation

December 16, 1987.

Before Administrative Judge: Peter B. Bloch, Presiding Officer.

An Oral Presentation, open to the public, will be convened in the U.S. Post Office Building, Room #40, 777 Corporation St., Beaver, Penn. 15009, January 5, 1988 (Tuesday) from 9 am to 5 pm.

Mr. David Held will be asked to present orally his point-by-point response to the affidavit of Mr. Barry Norris. Staff counsel or staff's witness may be requested to clarify which specific words of plant procedures or technical specifications are being relied on and otherwise to participate to the extent that it is helpful to the clarification of issues. I anticipate asking questions to assure that each point is addressed.

I note that Staff did not respond affirmatively to my suggestion that it propose an oral presentation date prior to January 12; the January 5 date is, therefore, set over the Staff's objection, stated in its Motion of December 15, 1987. Any motions that may affect this proceeding shall be reduced to writing and *received* by me and the other party before December 25, 1987. Subject to exceptions that I may grant, written responses shall be *received* no later than noon of January 4.

A transcript will be taken. Parties may be permitted to make closing summaries. I anticipate closing the record after this presentation and precluding further filings.

Peter B. Bloch,

Administrative Judge.

Bethesda, Maryland.

[FR Doc. 87-29304 Filed 12-21-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 316]

Indiana and Michigan Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-58 and DPR-74, issued to Indiana and Michigan Power Company (the licensee), for operation of the Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, located in Berrien County, Michigan.

The amendments would revise the provisions in the Technical Specifications relating to deleting the requirement to measure the moderator temperature coefficient near the end of the fuel cycle. The licensee's application for amendments was dated October 20, 1987.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By January 21, 1988, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition, without requesting leave of the Board, up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Kenneth E. Perkins, Jr.: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of General Counsel—Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Charnoff, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a

balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated October 20, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Maude Preston Palenski Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Bethesda, Maryland, this 9th day of December 1987.

For the Nuclear Regulatory Commission.

David L. Wigginton,

Project Manager, Project Directorate III–3, Division of Reactor Projects.

[FR Doc. 87–29310 Filed 12–24–87; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Leesa Martin, (202) 653–9404.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on November 24, 1987 (52 FR 45035). Individual authorities established or revoked under Schedule A, B, or C between November 1, 1987, and November 30, 1987, appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exception has been revoked.

Department of the Navy

One Personnel Security Specialist in the Naval Personnel Program Support Activity, Bureau of Naval Personnel. Effective November 10, 1987.

Schedule B

No Schedule B exceptions were established or revoked during November.

Schedule C

Department of Agriculture

One Confidential Assistant to the General Counsel. Effective November 30, 1987.

Department of Commerce

One Confidential Assistant to the Under Secretary for International Trade. Effective November 3, 1987.

One Confidential Assistant to the Under Secretary for Economic Affairs. Effective November 6, 1987.

One Congressional Liaison Specialist to the Deputy Assistant Secretary for Congressional Affairs. Effective November 12, 1987.

One Confidential Assistant to the Deputy Assistant Secretary for Trade Information and Analysis. Effective November 23, 1987.

One Congressional Liaison Specialist to the Under Secretary for Economic Affairs. Effective November 23, 1987.

One Congressional Liaison Specialist to the Director for Congressional Affairs. Effective November 23, 1987.

One Confidential Assistant to the Deputy Assistant Secretary for Domestic Operations. Effective November 25, 1987.

Department of Defense

One Secretary (Typing) to the Principal Deputy Assistant Secretary for Public Affairs. Effective November 13, 1987.

Department of Education

One Director, Intergovernmental Affairs to the Deputy Under Secretary for Intergovernmental and Interagency Affairs. Effective November 3, 1987.

One Director, Program Informations and Coordination Staff to the Assistant Secretary for Special Education and Rehabilitation Services. Effective November 3, 1987.

One Special Assistant to the Special Assistant, Office of the Secretary. Effective November 3, 1987.

One Confidential Assistant to the Director for Office of Special Education Programs. Effective November 4, 1987.

One Special Assistant to the Director for Intergovernmental Affairs. Effective November 4, 1987.

One Confidential Assistant to the Assistant Secretary for Legislation. Effective November 9, 1987.

One Special Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs. Effective November 18, 1987.

One Director of Interagency Operations to the Deputy Under Secretary for Office of Intergovernmental and Interagency Affairs. Effective November 25, 1987.

One Executive Assistant to the Under Secretary. Effective November 30, 1987.

One Executive Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs. Effective November 30, 1987.

Department of Health and Human Services

One Special Assistant to the Director for Office of Community Services. Effective November 12, 1987.

One Special Assistant for National Drug Policy Board to the Administrator for Alcohol, Drug Abuse, and Mental Health Administration. Effective November 12, 1987.

One Special Assistant for National Drug Policy Board to the Administrator for Alcohol, Drug Abuse, and Mental Health Administration. Effective November 23, 1987.

Department of Housing and Urban Development

One Special Assistant to the President for Government National Mortgage Association. Effective November 6, 1987.

One Assistant to the Deputy Assistant Secretary for Congressional Relations. Effective November 18, 1987.

One Assistant to the Deputy Assistant Secretary for Congressional Relations. Effective November 27, 1987.

Department of the Interior

One Supervisory Public Affairs Specialist to the Commissioner of Reclamation. Effective November 3, 1987.

Department of Justice

One Secretary (Steno) to the Assistant Attorney General. Effective November 4, 1987.

One Missing Children's Program Coordinator to the Administrator for Office of Juvenile Justice and Delinquency Prevention. Effective November 6, 1987.

One Attorney-Advisor (General) to the Assistant Attorney General. Effective November 6, 1987.

One Special Assistant to the Director for Community Relations Service. Effective November 9, 1987.

Department of Labor

One Special Assistant to the Secretary. Effective November 9, 1987.

Department of Transportation

One Special Assistant to the Director for Office of Public Affairs. Effective November 10, 1987.

One Special Assistant to the Administrator. Effective November 17, 1987.

One Associate Director for Program Affairs to the Director, Office of Commercial Space Transportation. Effective November 20, 1987.

Department of Treasury

One Special Assistant to the Executive Director for U.S. Savings Bonds Division. Effective November 3, 1987.

One Legislative Manager to the Deputy Assistant Secretary for Legislative Affairs. Effective November 6, 1987.

One Staff Assistant to the Deputy Assistant Secretary for Administration. Effective November 12, 1987.

Action

One Staff Assistant to the Associate Director for Legislative Public and Intergovernmental Affairs. Effective November 5, 1987.

Commodity Futures Trading Commission

One Governmental Affairs Officer to the Chairman. Effective November 30, 1987.

Environmental Protection Agency

One Special Assistant to the Assistant Administrator for Administration and Resources Management. Effective November 23, 1987.

Equal Employment Opportunity Commission

One Special Assistant to the Commissioner. Effective November 4, 1987.

Export-Import Bank of the United States

One Administrative Assistant (Typing) to the President and Chairman. Effective November 3, 1987.

Federal Emergency Management Agency

One Confidential Assistant to the Associate Director for National Preparedness. Effective November 13, 1987.

Federal Martime Commission

One Secretary (Typing) to the Commissioner. Effective November 13, 1987.

Federal Trade Commission

One Confidential Assistant to the Chairman. Effective November 5, 1987.

Office of Management and Budget

One Confidential Assistant to the Executive Assistant to the Director. Effective November 6, 1987.

President's Commission on Executive Exchange

One Secretary (Typing) to the Executive Director. Effective November 13, 1987.

Small Business Administration

One Special Assistant to the Regional Administrator. Effective November 23, 1987.

United States Trade Representative

One Confidential Secretary to the Ambassador. Effective November 23, 1987.

Authority: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P. 218.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

[FR Doc. 87–29244 Filed 12–21–87; 8:45 am]

BILLING CODE 6325–01–M

POSTAL RATE COMMISSION

Commission Visit to Postal Facilities

December 15, 1987.

Notice is hereby given that Commissioner LeBlanc, his special assistant and a member of the Commission's advisory staff will visit the Washington Bulk Mail Center and the Merrifield Management Sectional Center on Friday, December 18, 1987, to view mail acceptance and processing and will visit the carrier station in Rockville, Maryland, on Monday, December 21, 1987, to view carrier in-office operations.

For further information contact Gerald Cerasale at (202) 789–6868. A report of the visit will be on file in the Commission's Docket Room.

Charles L. Clapp,

Secretary.

[FR Doc. 87–29261 Filed 12–21–87; 8:45 am]

BILLING CODE 7715–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0409]

College Venture Equity Corp.; Surrender of License

Notice is hereby given that College Venture Equity Corp., 256 Third Street, Niagara Falls, New York 14303 has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). College Venture Equity was licensed by the Small Business Administration on December 1, 1980. Under the authority vested by the Act and pursuant to the Regulation promulgated thereunder, the surrender was accepted on November 19, 1987, and accordingly, all rights, privileges, and franchises therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: December 9, 1987.

[FR Doc. 87–29243 Filed 12–21–87; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB on December 15, 1987

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation on December 15, 1987, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reudction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler, Annette Wilson, or Cordelia Shepherd, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street SW., Washington, DC 20590, telephone (202) 366–4735, or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, (202) 395–7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with

criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. It you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on December 15, 1987.

DOT No.: 2978
OMB No.: New
Administration: U.S. Coast Guard
Title: Survey of Alcohol Intoxication In Recreational Boating
Need for Information: This information collection requirement is needed to determine the relative risk of fatal recreational boating accidents associated with various Blood Alcohol Cencentrations (BAC's)
Proposed Use of Information: The information will be used to determine the blood alcohol level of the victims. The Coast Guard will further use this information to inform boaters of their risk and to target boating safety programs. The results of the study will be provided to the states to support their regulation development in the area of boating while intoxicated
Frequency: One time
Burden Estimate: 175
Respondents: Recreational boaters
Form(s): GC-5472

DOT No.: 2985
OMB No.: 2133-0023
Administration: Maritime Administration
Title: Port Facility Inventory
Need for Information: To determine whether individual Port Facilities and Services are available for use by Federal agencies prior to and during National Defense Emergencies
Proposed Use of Information: To maintain data on essential Port Facilities
Frequency: Biennially
Burden Estimate: 30 hours
Respondents: Terminal Owners, Port Operators
Form(s): MA.400

DOT No.: 2990
OMB No.: 2125-0521
Administration: Federal Highway Administration
Title: Developing and Recording Cost For Railroad Adjustments
Need for Information: For railroad companies to maintain adequate records to support costs incurred for reimbursable railroad adjustments on Federal-aid projects
Proposed Use of Information: For FHWA to reimburse State highway agencies for costs of construction on Federal-aid projects
Frequency: Recordkeeping—3 year retention period
Burden Estimate: 4,600
Respondents: Railroad companies
Form(s):

DOT No.: 2991
OMB No.: 2127-0506
Administration: National Highway Traffic Safety Administration
Title: 49 CFR 571.125, Warning Devices
Need for Information: To aid the agency in achieving many of the safety goals
Proposed Use of Information: Manufacturers are required to provide permanently attached labels on warning devices giving name of manufacturer, date of manufacture certifying that it conforms with the applicable standard. Also, it should include specific instructions to the driver
Frequency: On occasion
Burden Estimate: 77 hours
Respondents: Businesses/small businesses
Form(s): None

DOT No.: 2992
OMB No.: 2115-0141
Administration: U.S. Coast Guard
Title: Reporting and Recordkeeping Requirements For Fire Fighting Equipment, Structural Fire Protection Materials, Lifesaving Equipment and Marine Sanitation Devices
Need for Information: The requirements contained in this submission are needed to ensure that emergency and lifesaving equipment is safe and reliable
Proposed Use of Information: The Coast Guard uses the information to approve emergency equipment and to determine that production stock of lifesaving appliances will be identical to those which were originally tested and approved
Frequency: On occasion
Burden Estimate: 7140
Respondents: Equipment manufacturers and independent testing laboratories
Form(s): None

DOT No.: 2993
OMB No.: 2115-0514
Administration: U.S. Coast Guard
Title: Merchant Marine License, Certificate and Document Application Recordkeeping/Reporting Requirements
Need for Information: This information collection requirement is needed to determine and document the training, experience, physical condition, professional qualifications and character of persons applying for a merchant marine license, certificate or document
Proposed Use of Information: The information will be used to determine the applicant's qualifications to receive or continue to hold a license, certificate or document
Frequency: On occasion
Burden Estimate: 100,616.25
Respondents: Applicants for merchant marine license, certificate or document
Form(s): CG-719K, 866, 4509, 4510, 719B, 2765, 2838, 719A, 5206, 5205, 4865, 3750, 2987, 2849, 887, and FD-258

DOT No.: 2994
OMB No.: 2115-0007
Administration: U.S. Coast Guard
Title: Applications For Vessel Inspection/Waiver
Need for Information: This information collection requirement provides basic information which is necessary for the initial planning and scheduling of a vessel inspection. Also, the information collection allows certain vessel owners and operators to apply for a waiver from the inspection laws based on national defense consideration
Proposed Use of Information: This information collection requirement is used to schedule and plan vessel inspections and to analyze the request for waiver
Frequency: On occasion and triennially
Burden Estimate: 1,429
Respondents: Owners, operators and agents of commercial vessels
Form(s): None

DOT No.: 2995
OMB No.: 2115-0073
Administration: U.S. Coast Guard
Title: Alternative Compliance—72 Colregs and Inland Rules
Need for Information: This information collection requirement is needed to justify the respondents request to deviate from the technical requirements of the International

Regulations for Preventing Collisions at Sea, 1972, and the Inland Navigational Rules Act of 1980
Proposed use of Information: The information will be used to determine the need for alternative systems on the vessel and the conditions that will apply
Frequency: On occasion
Burden Estimate: 135
Respondents: Vessel owners, operators, builders and agents
Form(s): N/A

DOT No.: 2996
OMB No.: 2120-0022
Administration: Federal Aviation Administration
Title: Certification: Merchanics, Repairmen, Parachute Riggers FAR-65
Need for Information: Certification is required before individuals can perform the specified job functions
Proposed Use of Information: The information is used to ensure that the applicant is qualified
Frequency: On occasion
Burden Estimate: 29,472 hours
Respondents: Individuals
Form(s): FAA—8610-1 and 8610-2

DOT No.: 2997
OMB No.: 2120-0010
Administration: Federal Aviation Administration
Title: Repair Station Certification—FAR-145
Need for Information: The information is needed to ensure that Repair Stations meet minimum acceptable standards
Proposed Use of Information: To issue initial, renewal, and amendments certificates to repair station facilities
Frequency: On occasion
Burden Estimate: 265,835 hours
Respondents: Repair Station Owners
Form(s): FAA Form 8310-3

DOT No.: 2998
OMB No.: 2120-0012
Administration: Federal Aviation Administration
Title: Parachute Lofts FAR-149
Need for Information: To determine compliance and applicant eligibility
Proposed Use of Information: The information is used to determine compliance and applicant eligibility for operation of parachute lofts
Frequency: On occasion
Burden Estimate: 6304
Respondents: Individuals and businesses
Form(s): FAA Form 8310-3

DOT No.: 2999
OMB No.: 2120-0033
Administration: Federal Aviation Administration
Title: Representatives of the Administrator FAR-183
Need for Information: FAA Act, section 314 authorizes appointment of properly qualified private persons to be representatives of the Administrator for examining, testing, and certifying airmen
Proposed Use of Information: The information is used to determine the eligibility of the representatives
Frequency: On occasion
Burden Estimate: 4,626
Respondents: Individuals
Form(s): FAA Forms 810-14, 8520-2, 8710-6

DOT No.: 3000
OMB No.: New Collection
Administration: Federal Highway Administration
Title: Federal Highway Administration
Need for Information: For FHWA and State officials to ensure that commercial motor vehicle operators meet the requirements of 49 CFR Part 383
Proposed Use of Information: For motor carrier employers to assist and ensure that commercial motor vehicle operators meet the provisions of the regulations of 49 CFR Part 383
Frequency: On occasion
Burden Estimate: 496,529
Respondents: Motor Carriers
Form(s):

DOT No.: 3001
OMB No.: 2127-0004
Administration: National Highway Traffic Safety Administration
Title: 49 CFR Part 573, Defect and noncompliance Reports
Need for Information: To monitor the recall campaigns requested by the manufacturers
Proposed Use of Information: Manufacturers of motor vehicles and equipment are required to report to this agency when they determine a recall campaign is needed. This helps the agency know the manufacturer's determination. The manufacturers must report on the status of the recall campaign, so the agency can monitor the recall
Frequency: On occasion
Burden Estimate: 6,300
Respondents: Business/small business or organizations
Form(s): None

DOT No.: 3002
OMB No.: 2120-0049
Administration: Federal Aviation Administration
Title: Agricultural Aircraft Operations FAR 137
Need for Information: The information is required from applicants who wish to be issued a commercial or private agricultural aircraft operator certificate
Proposed Use of Information: To determine applicant eligibility
Frequency: On occasion
Burden Estimate: 11,740 hours
Respondents: Individuals, businesses/small businesses
Form(s): FAA Form 8710-3

DOT No.: 3003
OMB No.: 2120-0028
Administration: Federal Aviation Administration
Title: Operations Specifications
Need for Information: To approve aircraft-operator's requests for operations specifications as are necessary to ensure safety in air transportation
Proposed Use of Information: The information is used to determine applicant's eligibility
Frequency: On occasion
Burden Estimate: 7,600 hours
Respondents: Businesses
Form(s): FAA Form 8400-1, 1A, 7

DOT No.: 3004
OMB No.: 2125-0196
Administration: Federal Highway Administration
Title: Time Records
Need for Information: To meet the requirements of 49 CFR 395.8(1) to provide an exemption from the driver's record of duty status for drivers operating within a 100 air-mile radius of the location to which they report for work
Proposed Use of Information: For FHWA and motor carriers to determine compliance with maximum time limitations are required by 49 CFR 395.3
Frequency: Recordkeeping/6 months
Burden Estimate: 10,804,553
Respondents: Motor carriers
Form(s):

DOT No.: 3005
OMB No.: 2125-0519
Administration: Federal Highway Administration
Title: Developing and Recording Cost for Utility Adjustments
Need for Information: For utility companies to maintain adequate records to support costs incurred for reimbursable utility adjustments on Federal-aid highway projects
Proposed Use of Information: For FHWA to reimburse State highway agencies for the costs of construction of Federal-aid projects
Frequency: Recordkeeping 3 year retention period
Burden Estimate: 480,000
Respondents: Utility companies
Form(s): N/A

DOT No.: 3006

OMB No.: New
Administration: Federal Aviation Administration
Title: Research questionnaire to be used in the program to identify and treat pilot errors
Need for Information: The information is needed to help design decision-making programs for pilots
Proposed Use of Information: To determine what characteristics could be involved in pilot judgment error
Frequency: One time
Burden Estimate: 1,500 hours
Respondents: Pilots
Form(s): Questionnaire

DOT No.: 3007
OMB No.: 2133–0018
Administration: Maritime Administration
Title: 46 CFR Part 298—Title X1 Obligation Guarantees
Need for Information: To evaluate applicant eligibility for Title XI Assistance
Proposed Use of Information: To protect the Government's Financial interest in providing ship financing guarantee contracts
Frequency: On occasion; semiannually
Burden Estimate: 2,000 hours
Respondents: Ship owners and ship operators
Form(s): MA–163, attachments

DOT No: 3008
OMB No: 2115–0012
Administration: U.S. Coast Guard
Title: Application for Appointment as Cadet, U.S. Coast Guard Academy
Need for Information: This information collection requirement provides a means for interested persons to apply and compete for an appointment as a Cadet
Proposed Use of Information: The Coast Guard Academy uses this information to review applicants qualifications and qualifications and to determine eligibility
Frequency: Once per applicant
Burden Estimate: 8,800
Respondents: College bound men and women between 18 and 22 years old
Form(s): CG–4151, CGAD–618 A & B, CGAD 635, CGAD–634 A and B

DOT No: 3009
OMB No: 2138–0023
Administration: Research and Special Programs
Title: Reporting Required for International Civil Aviation Organization (ICAO)
Need for Information: To fulfill U.S. treaty obligation
Proposed Use of Information: Information is used by ICAO, a branch of the United Nations, to develop worldwide aviation policies
Frequency: Monthly, Quarterly and annually
Burden Estimate: 273 hours
Respondents: Large air carriers
Form(s): RSPA Forms AM, AN, C and EF and ICAO Forms A–1, B, C, D–1, D–2 and EF–1

DOT No: 3010
OMB No: New
Administration: U.S. Coast Guard
Title: Hooper Dredge Working Freeboard
Need for Information: Coast Guard needs this collection of information to ensure compliance with proposed regulations which will allow hopper dredge owners and operators to load deeper drafts and carry more dredged spoil
Proposed Use of Information: The Coast Guard uses this information to grant working freeboards to the requesting vessels. The vessel master will use this information to ensure safe operation of the vessel
Frequency: On occasion
Burden Estimate: 204
Respondents: Owners, agents and masters of self-propelled hopper dredges
Form(s): N/A.

Issued in Washington, DC on December 15, 1987.

Robert J. Woods,

Director of Information Resource Management.

[FR Doc. 87–29247 Filed 12–21–87; 8:45 am]
BILLING CODE 4910–62–M

Federal Aviation Administration

Flight Service Station at Daggett, CA; Closing

Notice is hereby given that on or about January 5, 1988, the Flight Service Station at Daggett, California, will be closed. Services to the general aviation public of Daggett, formerly provided by this office, will be provided by the Flight Service Station in Riverside, California. This information will be reflected in the next reissuance of the FAA Organization Statement.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Lawndale, California on December 8, 1987.

H.C. McClure,

Director, Western-Pacific Region.

[FR Doc. 87–29255 Filed 12–21–87; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: December 15, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: 8689
Type of Review: New Collection
Title: Allocation of Individual Income Tax to the Virgin Islands
Description: Used by U.S. citizens or residents as an attachment to Form 1116 when they have Virgin Islands source income. The data is used by IRS to verify the amount claimed on Form 1116 for taxes paid to the Virgin Island
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 306 hours

OMB Number: New
Form Number: 8453-E
Type of Review: New Collection
Title: Annual Return/Report of Employee Benefit Plan (With Fewer than 100 Participants) Magnetic Media/Electronic Filing
Description: This form will be used to secure taxpayer signatures and declarations in conjunction with the Electronic Filing of Form 5500 and Form 5500–C. This form, together with the electronic transmission, will comprise the annual information return
Respondents: Individuals or households, Businesses or other for-profit
Estimated Burden: 12,229 hours
Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW, Washington, DC 20224
Clearance Officer: Milo Sunderhauf (202) 395–6880 Office of Management and Budget, Room 3208, New

Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports, Management Officer.

[FR Doc. 87-29231 Filed 12-21-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: December 17, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: 8582-CR
Type of Review: New Collection
Title: Passive Activity Credit Limitations
Description: Under section 469, credits from passive activities, to the extent they do not exceed the tax attributable to net passive income, are not allowed. Form 8582-CR is used to figure the passive activity credit allowed and the amount of credit to be reported on the tax return. Worksheets 1, 2, and 3 in the instructions are used to figure the amounts to be entered on lines 1, 2, and 3 Form 8582-CR and worksheets 4 through 7 are used to allocate the credits allowed back to the indivdiual activities.
Respondents: Individuals or households, Farms, Businesses or other for-profit
Estimated Burden: 973,350 hours

OMB Number: 1545-0553
Form Number: RCMW 1-727
Type of Review: Extension
Title: Geographic Availability Statement
Description: This form will be used to ascertain the applicant's geographic preference for appointment location. This will facilitate certification to the appropriate appointing office. Applicants are for positions for which IRS maintains registers.
Respondents: Individuals or households
Estimated Burden: 180 hours
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
Clearance Officer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-29282 Filed 12-21-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: December 17, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0059
Form Number: CF 1303
Type of Review: Reinstatement
Title: Ship's Stores Declaration
Description: The Customs Form 1303 is used by the importing carrier to list articles to be retained on board the vessel such as sea stores, ship stores, or bunker coal, or bunker oil, etc.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 4,125 hours
Clearance Officer: B.J. Simpson (202) 566-7529, U.S. Customs Service, Room 6426, 1301 Constitution Avenue NW., Washington, DC 20229
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-29283 Filed 12-21-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: December 17, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 545-0059
Form Number: 4137
Type of Review: Extension
Title: Computation of Social Security Tax on Unreported Tip Income
Description: Section 3102 requires an employee who receives tips subject to FICA tax to compute tax due on these tips if the employee did not report them to his or her employer. The data is used to help verify that the FICA tax on tip income is correctly computed.
Respondents: Individuals or households
Estimated Burden: 51,301 hours
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
Clearance Officer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Department Reports Management Officer

[FR Doc. 87-29284 Filed 12-21-87; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 245
Tuesday, December 22, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of December 21, 1987:

A closed meeting will be held on Tuesday, December 22, 1987, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10) permit consideration of the scheduled matters at a closed meeting.

Commissioner Cox, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, December 22, 1987, at 2:30 p.m., will be:

Institution of injunctive actions.

Settlement of injunctive action.

Settlement of administrative proceeding of an enforcement nature.

Institution of administrative proceedings of an enforcement nature.

Formal orders of investigation.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jacqueline Higgs at (202) 272–2149.

Jonathan G. Katz,

Secretary.

December 16, 1987.

[FR Doc. 87–29351 Filed 12–18–87; 11:25 am]
BILLING CODE 8010-01-M

federal register

Tuesday
December 22, 1987

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Proposed Establishment of Airport Radar Service Areas; Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-AWA-49]

Proposed Establishment of Airport Radar Service Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish an Airport Radar Service Area (ARSA) at Green Bay Austin Straubel Field, WI, and Whidbey Island Naval Air Station (NAS), WA. Each location is an airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of each ARSA would require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at each of the affected locations would promote the efficient control of air traffic and reduce the risk of midair collision in terminal areas.

DATES: Comments must be received on or before March 29, 1988. Informal airspace meeting dates are as follows: Green Bay Austin Straubel Field, WI, February 23, 1988, and Whidbey Island NAS, WA—February 29, 1988.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket [AGC-204], Airspace Docket No. 87-AWA-49, 800 Independence Avenue SW., Washington, DC 20591.

The informal airspace meeting places are as follows:

Green Bay Austin Straubel Field, WI, ARSA.
Time: 7:00 p.m..
Location: Airport Director's Conference Room, Austin Straubel Field, Green Bay, WI

Whidbey Island NAS, WA, ARSA.
Time: 7:00 p.m..
Location: Swinomish Yacht Club, 310 North First, LaConner, WA.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

The informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Joe Gill, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

Comments Invited

This notice involves two locations. Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-AWA-49." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Meeting Procedures

In addition to seeking written comments on this proposal, the FAA will hold informal airspace meetings for the proposed ARSA locations in order to receive additional input with respect to the proposal. The dates, times, and places for these meetings are listed above. Persons who plan to attend the meetings should be aware of the following procedures to be followed:

(a) The meetings will be informal in nature and will be conducted by the designated representative of the Administrator. Each participant will be given an opportunity to make a presentation.

(b) There will be no admission fee or other charge to attend and participate. The meetings will be open to all persons on a space-available basis. The FAA representative may accelerate the agenda to enable early adjournment if the progress of the meetings is more expeditious than planned.

(c) The meetings will not be recorded. A summary of the comments made at these meetings will be filed in the docket.

(d) Position papers or other handout material relating to the substance of the meetings may be accepted. Participants submitting handout materials should present an original and two copies to the presiding officer. There should be an adequate number of copies provided for further distribution to all participants.

(e) Statements made by FAA participants at the meetings should not be taken as expressing a final FAA position.

Agenda

Presentation of Meeting Procedures
FAA Presentation of Proposal
Public Presentations and Discussion

Background

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and procedural aspects of the ATC system. Among the main objectives of the NAR was the improvement of the ATC system by increasing efficiency and reducing complexity. In its review of terminal airspace, NAR Task Group 1-2 concluded that TRSA's should be replaced. Four types of airspace configurations were considered as replacement candidates, of which Model B, since redesignated ARSA, was the consensus recommendation.

In response, the FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas with Model B Airspace and Service" in Notice 83-9 (July 28, 1983; 48 FR 34286) proposing the establishment of ARSA's at the Robert Mueller Municipal Airport,

Austin, TX, and the Port of Columbus International Airport, Columbus, OH. ARSA's were designated at these airports on a temporary basis by SFAR No. 45 (October 28, 1983; 48 FR 50038) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis.

Following a confirmation period of more than a year, the FAA adopted the NAR recommendation and, on February 27, 1985, issued a final rule (50 FR 9252; March 6, 1985) defining an ARSA and establishing air traffic rules for operation within such an area. Concurrently, by separate rulemaking action, ARSA's were permanently established at the Austin, TX, and Columbus, OH, airports and also at the Baltimore/Washington International Airport, Baltimore, MD, (50 FR 9250; March 6, 1985). The FAA has stated that future notices would propose ARSA's for other airports at which TRSA procedures were in effect.

Additionally, the NAR Task Group recommended that the FAA develop quantitative criteria for proposing to establish ARSA's at locations other than those which are included in the TRSA replacement program. The task group recommended that these criteria take into account, among other things, traffic mix, flow and density, airport configuration, geographical features, collision risk assessment, and ATC capabilities to provide service to users. This criteria has been developed and is being published via the FAA directives system.

The FAA has established ARSA's at 93 locations under a paced implementation plan to replace TRSA's with ARSA's. This is one of a series of notices to implement ARSA's at locations with TRSA's or locations without TRSA's which warrant implementation of an ARSA.

Related Rulemaking

This notice proposes ARSA designation at two locations identified as candidates for an ARSA in the preamble to Amendment No. 71-10 (50 FR 9252). Other candidate locations will be proposed in future notices published in the Federal Register.

The Current Situation at the Proposed ARSA Locations

A TRSA is currently in effect at both of the locations at which ARSA's are proposed in this notice. A TRSA consists of the airspace surrounding a designated airport where ATC provides radar vectoring, sequencing, and separation for all aircraft operating under instrument flight rules (IFR) and for participating aircraft operating under visual flight rules (VFR). TRSA airspace and operating rules are not established by regulation, and participation by pilots operating under VFR is voluntary, although pilots are urged to participate. This level of service is known as Stage III and is provided at all locations identified as TRSA's. The NAR task group recommended the replacement of most TRSA's with ARSA's.

A number of problems with the TRSA program were identified by the task group. The task group stated that because there are different levels of service offered within the TRSA, users are not always sure of what restrictions or privileges exist, or how to cope with them. According to the task group, there is a shared feeling among users that TRSA's are often poorly defined, are generally dissimilar in dimensions, and encompass more area than is necessary or desirable. There are other users who believe that the voluntary nature of the TRSA does not adequately address the problems associated with nonparticipating aircraft operating in relative proximity to the airport and associated approach and departure courses. There is strong advocacy among user organizations that terminal radar facilities should provide all pilots the same service, in the same way, and, to the extent feasible, within standard size airspace designations.

The provisions of FAR § 91.87 relating to an airport traffic area (ATA), while necessary, do not eliminate the problem identified by the task group. For example, aircraft operating under VFR to or from a satellite airport and within the ATA of the primary airport are excluded from the two-way radio communications requirement of § 91.87. This condition is acceptable until the volume and density of traffic at the primary airport requires more complete ATC awareness and/or control of traffic in the area.

The Proposal

The FAA is considering an amendment to § 71.501 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish ARSA's at Green Bay Austin Straubel Field, WI, which is a public airport, and Whidbey Island NAS, WA, a military airport. Both of these currently have nonregulatory TRSA's in effect. The proposed locations are depicted on charts in Appendix 1 to this notice.

FAA regulations, 14 CFR 91.88, define ARSA and prescribe operating rules for aircraft, ultralight vehicles, and parachute jump operations in airspace designated as an ARSA.

The ARSA rule provides in part that, prior to entering the ARSA, any aircraft arriving at any airport in an ARSA or flying through an ARSA must: (1) Establish two-way radio communications with the ATC facility having jurisdiction over the area, and (2) while in the ARSA, maintain two-way radio communications with that ATC facility. For aircraft departing from the primary airport within the ARSA, two-way radio communications must be maintained with the ATC facility having jurisdiction over the area. For aircraft departing a satellite airport within the ARSA, two-way radio communications must be established as soon as practicable after takeoff with the ATC facility having jurisdiction over the area, and thereafter maintained while operating within the ARSA.

All aircraft operating within an ARSA are required to comply with all ATC clearances and instructions and any FAA arrival or departure traffic pattern for the airport of intended operation. However, the rule permits ATC to authorize appropriate deviations to any of the operating requirements of the rule when safety considerations justify the deviation or more efficient utilization of the airspace can be attained. Ultralight vehicle operations and parachute jumps in an ARSA may only be conducted under the terms of an ATC authorization.

The FAA adopted the NAR task group recommendation that each ARSA be of the same airspace configuration insofar as practicable. The standard ARSA consists of airspace within 5 nautical miles of the primary airport extending from the surface to an altitude of 4,000 feet above that airport's elevation, and that airspace between 5 and 10 nautical miles from the primary airport from 1,200 feet above the surface to an altitude of 4,000 feet above that airport's elevation. Proposed deviation from the standard has been necessary at some airports due to adjacent regulatory airspace, international boundaries, topography, or unusual operational requirements.

Definitions, operating requirements, and specific airspace designations applicable to ARSA may be found in 14 CFR Part 71, §§ 71.14 and 71.501, and Part 91, §§ 91.1 and 91.88.

For the reasons discussed under "Regulatory Evaluation," the FAA has determined that this proposed regulation is not a "major rule" under Executive Order 12291 and is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Regulatory Evaluation

The FAA has conducted a Regulatory Evaluation of the proposed establishment of these additional ARSA sites. The major findings of that evaluation are summarized below, and the evaluation is available in the regulatory docket.

a. Costs

Costs which potentially could result from the establishment of additional ARSA sites fall into the following categories:

(1) Air traffic controller staffing, controller training, and facility equipment costs incurred by the FAA.

(2) Costs associated with the revision of charts, notification of the public, and pilot education.

(3) Additional operating costs for circumnavigating or flying over the ARSA.

(4) Potential delay costs resulting from operations within an ARSA.

(5) The need for some operators to purchase radio transceivers.

(6) Miscellaneous costs.

It has been the FAA's experience, however, that these potential costs do not materialize to any appreciable degree, and when they do occur, they are transitional, relatively low in magnitude, or attributable to specific implementation problems that have been experienced at a very small minority of ARSA sites. The reasons for these conclusions are presented below.

FAA expects that the additional ARSA sites proposed in this notice can be implemented without requiring additional controller personnel above current authorized staffing levels, because participation in radar service at these locations is already quite high, and the separation standards permitted in ARSA's will allow controllers to absorb the slight increase in participating traffic by handling all traffic much more efficiently. Further, because controller training will be conducted during normal working hours, and these facilities already operate the necessary radar equipment, FAA does not expect to incur any appreciable implementation costs. Essentially, the FAA will modify its terminal radar procedures at the proposed ARSA sites in a manner that will make more efficient use of existing resources.

No additional costs are expected to be incurred because of the need to revise sectional charts to incorporate the new ARSA airspace boundaries. Changes of this nature are routinely made during charting cycles, and the planned effective dates for newly established ARSA's are scheduled to coincide with the regular 6-month chart publication intervals.

This rulemaking proceeding and process will satisfy much of the need to notify the public and educate pilots about ARSA operations. The informal public meeting being held at each location where an ARSA is being proposed provides pilots with the best opportunity to learn both how an ARSA works and how it will affect their local operations. The expenses associated with these public meetings are considered cost attributable to the rulemaking process; however, any public information costs following establishment of a new ARSA are strictly attributable to the ARSA. The FAA expects to distribute a Letter to Airmen to all pilots residing within 50 miles of ARSA sites explaining the operation and configuration of the ARSA finally adopted. The FAA also has issued an Advisory Circular on ARSA's. The combined Letter to Airmen and prorated Advisory Circular costs have been estimated to be approximately $500 for each ARSA site. This cost is incurred only once upon the initial establishment of an ARSA.

Information on ARSA's following the establishment of additional sites will also be disseminated at aviation safety seminars conducted throughout the country by various district offices. These seminars are regularly provided by the FAA to discuss a variety of aviation safety issues and, therefore, will not involve additional costs strictly as a result of the ARSA program. Additionally, no significant costs are expected to be incurred as a result of the follow-on user meetings that will be held at each site following implementation of the ARSA which will allow users to provide feedback to the FAA on local ARSA operations. These meetings are being held at public or other facilities which are being provided free of charge or at nominal cost. Further, because these meetings are being conducted by local FAA facility personnel, no travel, per diem, or overtime costs will be incurred by regional or headquarters personnel.

FAA anticipates that some pilots who currently transit the terminal area without establishing radio communications or participating in radar services may choose to circumnavigate the mandatory participation airspace of an ARSA rather than participate. Some minor delay costs will be incurred by these pilots because of the additional aircraft variable operating cost and lost crew and passenger time resulting from the deviation. Other pilots may elect to overfly the ARSA, or transit below the 1,200 feet above ground level (AGL) floor between the 5- and 10-nautical-mile rings. Although this will not result in any appreciable delay, a small additional fuel burn will result from the climb portion of the altitude adjustment (which will be offset somewhat by the descent).

FAA recognizes that the potential exists for delay to develop at some locations following establishment of an ARSA. The additional traffic that the radar facilities will be handling as a result of the mandatory participation requirement may, in some instances, result in minor delays to aircraft operations. FAA does not expect such delay to be appreciable. FAA expects that the greater flexibility afforded controllers in handling traffic as a result of the separation standards allowed in an ARSA will keep delay problems to a minimum. Those that do occur will be transitional in nature, diminishing as facilities gain operating experience with ARSA's and learn how to tailor procedures and allocate resources to take fullest advantage of the efficiencies that an ARSA will permit. This has been the experience at most of the locations where ARSA's have been effect for the longest period of time and is the recurring trend at the locations that have been more recently designated.

The FAA does not expect that any operator will find it necessary to install radio transceivers as a result of establishing the ARSA's proposed in this notice. Aircraft operating to and from primary airports already are required to have two-way radio communications capability because of existing airport traffic areas and, therefore, will not incur any additional costs as a result of the proposed ARSA's. Further, the FAA has made an effort to minimize these potential costs throughout the ARSA program by providing airspace exclusions, or cutouts, for satellite airports located within 5 nautical miles of the ARSA center where the ARSA would otherwise have extended down to the surface. Procedural agreements between the local ATC facility and the affected airports have also been used to avoid radio installation costs.

At some proposed ARSA locations, special situations might exist where establishment of an ARSA could impose certain costs on users of that airspace. However, exclusions, cutouts, and special procedures have been used extensively throughout the ARSA program to alleviate adverse impacts on local fixed base and airport operators. Similarly, the FAA has eliminated potential adverse impacts on existing

flight training practice areas, as well as soaring, ballooning, parachuting, ultralight and banner towing activities, by developing special procedures to accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, the FAA does not expect that any such adverse impact will occur at the candidate ARSA sites proposed in this notice.

b. Benefits

Much of the benefit that will result from ARSA's is nonquantifiable and is attributable to simplification and standardization of ARSA configurations and procedures. Further, once experience is gained in ARSA operations, the flexibility allowed air traffic controllers in handling traffic within an ARSA will enable them to move traffic with both efficiency and increased safety.

Some of the benefits of the ARSA cannot be specifically attributed to individual candidate airports, but rather will result from the overall improvements in terminal area ATC procedures realized as ARSA's are implemented throughout the country. ARSA's have the potential of reducing both near and actual midair collisions at the airports where they are established. Based upon the experience at the Austin and Columbus ARSA confirmation sites, FAA estimates that near midair collisions may be reduced by approximately 35 to 40 percent. Further, FAA estimates that implementation of the ARSA program nationally may prevent approximately one midair collision every 1 to 2 years throughout the United States. The quantifiable benefits of preventing a midair collision can range from less than $100,000, resulting from the prevention of a minor nonfatal accident between general aviation aircraft, to $300 million or more, resulting from the prevention of a midair collision involving a large air carrier aircraft and numerous fatalities. Establishment of ARSA's at the sites proposed in this notice will contribute to these improvements in safety.

c. Comparison of Costs and Benefits

A direct comparison of the costs and benefits of this proposal is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, and it is difficult to specifically attribute the standardization benefits, as well as the safety benefits, to individual candidate ARSA sites.

FAA expects that any adjustment problems that may be experienced at the ARSA locations proposed in this notice will only be temporary, and that once established, the ARSA's will result in efficient terminal area operations. This has been the experience at the vast majority of ARSA sites that have already been implemented. In addition, establishment of the proposed ARSA sites will contribute to a reduction in near and actual midair collisions. For these reasons, FAA expects that establishment of the ARSA sites proposed in this notice will produce long term, ongoing benefits that will far exceed their costs, which are essentially transitional in nature.

International Trade Impact Analysis

This proposed regulation will only affect terminal airspace operating procedures at selected airports within the United States. As such, it will have no affect on the sale of foreign aviation products or services in the United States, nor will it affect the sale of United States aviation products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. The RFA requires agencies to review rules that may have a significant economic impact on a substantial number of small entities.

The small entities that potentially could be affected by implementation of the ARSA program include the fixed-base operators, flight schools, agricultural operators and other small aviation businesses located at satellite airports within 5 nautical miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in radar services and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. FAA has proposed to exclude many satellite airports located within 5 nautical miles of the primary airport at candidate ARSA sites to avoid adversely impacting their operations and to simplify coordinating ATC responsibilities between the primary and satellite airports. In some cases, the same purposes will be achieved through Letters of Agreement between ATC and the affected airports that establish special procedures for operating to and from these airports. In this manner, FAA expects to eliminate any adverse impact on the operations of small satellite airports that potentially could result from the ARSA program. Similarly, FAA expects to eliminate potentially adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures that will accommodate these activities through local agreements between ATC facilities and the affected organizations. FAA has utilized such arrangements extensively in implementing the ARSA's that have been established to date.

Further, because the FAA expects that any delay problems that may initially develop following implementation of an ARSA will be transitory, and because the airports that will be affected by the ARSA program represent only a small proportion of all the public use airports in operation within the United States, small entities of any type that use aircraft in the course of their business will not be adversely impacted.

For these reasons, the FAA certifies that the proposed regulation, if adopted, will not result in a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required under the terms of the RFA.

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follow:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.501 [Amended]

2. Section 71.501 is amended as follows:

Green Bay Austin Straubel Field, WI [New]

That airspace extending upward from the surface to and including 4,700 feet MSL within a 5-mile radius of the Green Bay Austin Straubel Field (lat. 44°29'17" N., long. 88°18'58" W.); and that airspace extending upward from 1,900 feet MSL to and including 4,700 feet MSL within a 10-mile radius of the airport.

Whidbey NAS, WA [New]

That airspace extending upward from the surface to and including 4,000 feet MSL within a 5-mile radius of Whidbey Island NAS (lat. 48°21'06" N., long. 122°39'12" W.); and that airspace extending upward from 1,300 feet MSL to and including 4,000 feet MSL within a 10-mile radius of the airport from the 030° bearing from the airport clockwise to the 340° bearing from the airport; and that airspace extending upward from 1,800 feet MSL to and including 4,000 feet MSL within a 10-mile radius of the airport from the 340° bearing from the airport clockwise to the 030° bearing from the airport.

Issued in Washington, DC, on December 8, 1987.

Daniel J. Peterson,

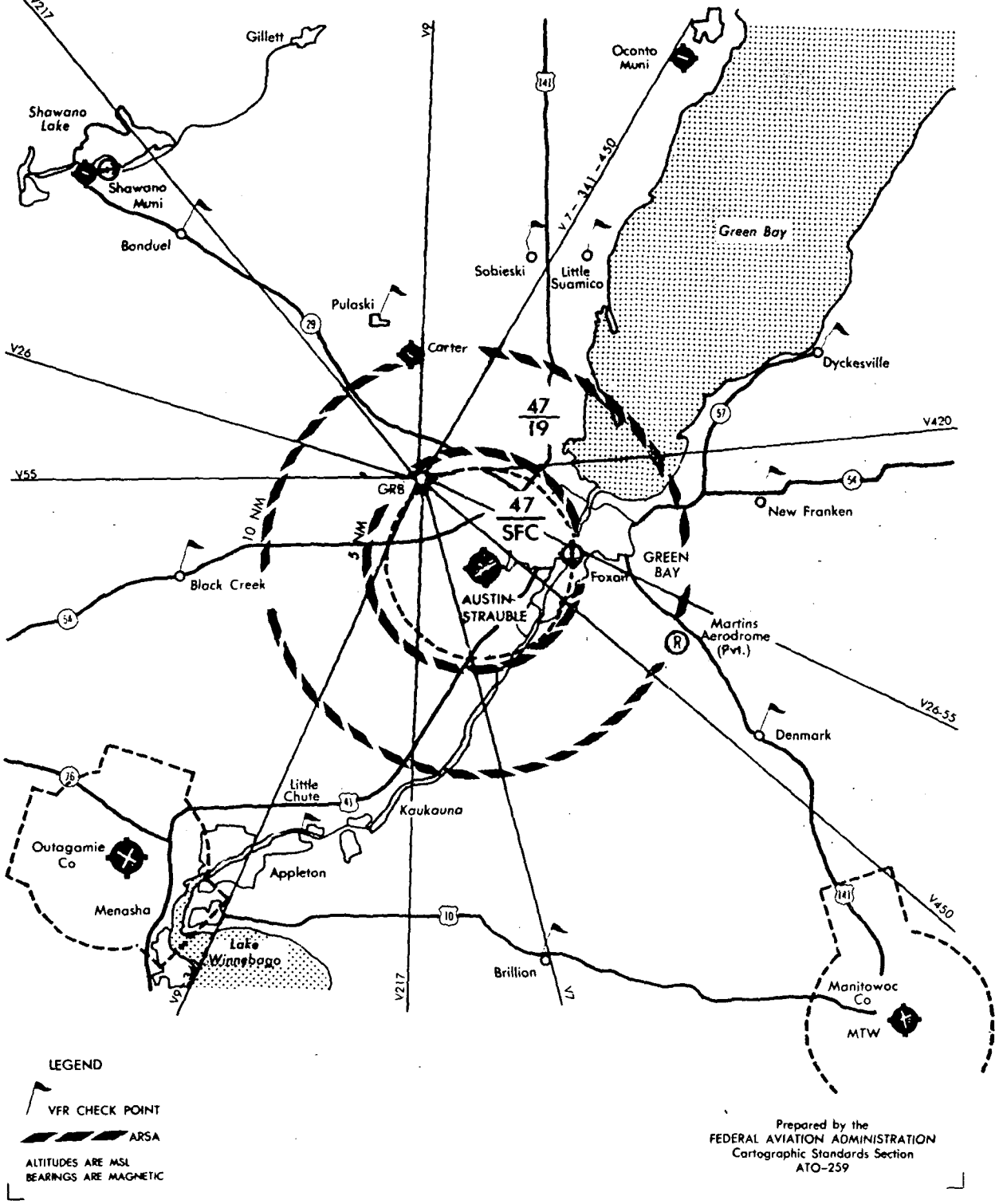
Manager, Airspace-Rules and Aeronautical Information Division.

BILLING CODE 4910-13-M

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

GREEN BAY, WISCONSIN
AUSTIN STRAUBEL FIELD
FIELD ELEV. 695' MSL

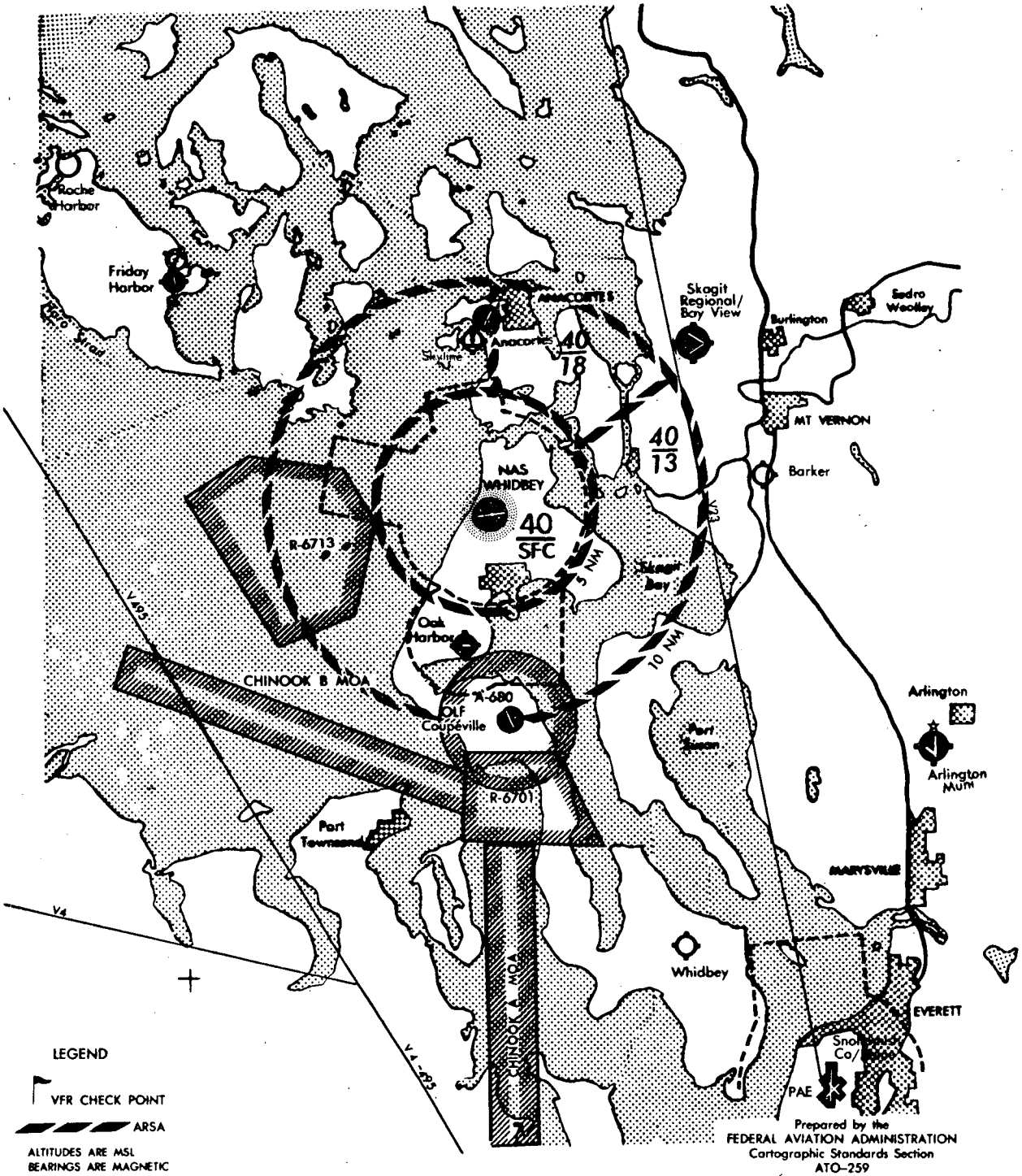


Prepared by the
FEDERAL AVIATION ADMINISTRATION
Cartographic Standards Section
ATO-259

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

WHIDBEY ISLAND, WASHINGTON
NAS WHIDBEY ISLAND
FIELD ELEV. 47' MSL



[FR Doc. 87-29248 Filed 12-21-87; 8:45 am]

BILLING CODE 4910-13-C

Federal Register

Tuesday
December 22, 1987

Part III

Department of Labor

Office of the Secretary

29 CFR Part 22

Program Fraud Civil Remedies Act of 1986; Final Rule

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 22

Program Fraud Civil Remedies Act of 1986

AGENCY: Office of the Secretary, Labor.

ACTION: Final rule.

SUMMARY: The Program Fraud Civil Remedies Act of 1986 (Act) establishes an administrative remedy for fraudulent claims or statements submitted to various federal "authorities," including the Department of Labor. Anyone who, with knowledge or reason to know, submits a false, fictitious or fraudulent claim or statement to any of these "authorities" is liable for up to a $5,000 penalty and an assessment of double damages. This final rule establishes the policies and administrative procedures the Department of Labor will follow in implementing the provisions of the Act, and specifies the hearing and appeal rights of persons subject to penalties and assessments under the Act.

EFFECTIVE DATE: January 21, 1988.

FOR FURTHER INFORMATION CONTACT: Dennis McDaniel, Office of the Solicitor, Department of Labor, Room N2428, 200 Constitution Avenue, NW., Washington, DC 20210.

SUPPLEMENTARY INFORMATION: On October 21, 1986, the President signed the Omnibus Reconciliation Act of 1986, which enacted the Program Fraud Civil Remedies Act of 1986. The Act provides an administrative remedy for fraudulent claims or statements submitted to various authorities and provides up to a $5000 penalty and an assessment of double damages against anyone who submits a false claim or statement. These regulations establish the policies and procedures the Department of Labor will follow in carrying out the provisions of the Act.

The Act vests authority to investigate allegations of liability under its provisions in an agency's Investigatory Official. Based upon the results of an investigation, the agency Reviewing Official determines, with the concurrence of the Attorney General whether to refer the matter to a Presiding Officer for an administrative hearing. Any penalty or assessment imposed under the Act may be collected by the Attorney General, through the filing of a civil action, or by offsetting amounts, other than tax refunds, owed the particular party by the Federal Government. For purposes of this Act, these regulations designate the Inspector General of the Department of Labor, or his designee, as the Investigatory Official for the Department of Labor. They also designate the Solicitor of the Department of Labor, or his designee, as the Reviewing Official under the Act. Any administrative adjudication under the Act will be presided over by an administrative law judge in the Department of Labor's Office of Administrative Law Judges.

This rule was originally published in the **Federal Register** on June 2, 1987. Comments were to be submitted to the Department of Labor, in duplicate, on or before July 2, 1987. No written comments were received by the Department of Labor. Technical changes to the Department's regulations have been made to conform with the final model regulations issued by the President's Council on Integrity and Efficiency, and thereby to conform with the congressional intent that regulations under the Program Fraud Civil Remedies Act of 1986 be "substantially uniform throughout government." (S. Rep. No. 99–212, 99th Cong., 1st Sess. 12 (1986).)

Executive Order 12291

This rule is not a "major rule" under Executive Order 12291 because it is not likely to result in (1) an annual effect in the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign based enterprises in domestic or foreign markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

The Department believes that this final rule will have no "significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act. Public Law 96–354, 94 Stat. 1164 (5 U.S.C. 605(b)). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because the rule does not, in itself, impose any additional requirements upon small entities. Accordingly, no regulatory flexibility analysis is required.

Paperwork Reduction Act

This rule is not subject to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501) since it does not contain a collection of information requirements.

List of Subjects in 29 CFR Part 22

Administrative practice and procedures, Claims, Government contracts, Grant programs.

Accordingly, Subtitle A of Title 29 of the Code of Federal Regulation is amended by adding a new Part 22 to read as follows:

PART 22—PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

Sec.

Authority: Pub. L. 99–509, §§ 6101–6104, 100 Stat. 1874, 31 U.S.C. 3801–3812.

§ 22.1 Basis and purpose.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of

1986, Pub. L. No. 99–509, sections 6101–6104, 100 Stat. 1874 (October 21, 1986), to be codified at 31 U.S.C. 3801–3812. 31 U.S.C. 3809 of the statute requires each authority head to promulgate regulations necessary to implement the provisions of the statute.

(b) *Purpose.* This part (1) establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents, and (2) specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

§ 22.2 Definitions.

(a) "*ALJ*" means an Administrative Law Judge in the authority appointed pursuant to 5 U.S.C. 3105 or detailed to the authority pursuant to 5 U.S.C. 3344.

(b) "*Authority*" means the United States Department of Labor.

(c) "*Authority head*" means the Secretary of Labor.

(d) "*Benefit*" means, in the context of "statement", anything of value, including but not limited to any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

(e) "*Claim*" means, any request, demand, or submission—

(1) Made to the authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

(2) Made to a recipient of property, services, or money from the authority or to a party to a contract with the authority—

(i) For property or services if the United States—

(A) Provided such property or services;

(B) Provided any portion of the funds for the purchase of such property or services; or

(C) Will reimburse such recipient or party for the purchase of such property or services; or

(ii) For the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

(A) Provided any portion of the money requested or demanded; or

(B) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(3) Made to the authority which has the effect of decreasing an obligation to pay or account for property, services, or money.

(f) "*Complaint*" means the administrative complaint served by the reviewing official on the defendant under § 22.7.

(g) "*Defendant*" means any person alleged in a complaint under § 22.7 to be liable for a civil penalty or assessment under § 22.3.

(h) "*Department*" means the United States Department of Labor.

(i) "*Government*" means the United States Government.

(j) "*Individual*" means a natural person.

(k) "*Initial decision*" means the written decision of the ALJ required by § 22.10 or § 22.37, and includes a revised initial decision issued following a remand or a motion for reconsideration.

(l) "*Investigating official*" means the Inspector General of the Department of Labor or an officer or employee of the Office of the Inspector General designated by the Inspector General and serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule.

(m) "*Knows or has reason to know*," means that a person, with respect to a claim or statement—

(1) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(2) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(3) Acts in reckless disregard of the truth or falsity of the claim or statement.

(n) "*Makes*", wherever it appears, shall include the terms presents, submits, and causes to be made, presented, or submitted. As the context requires, *making* or *made*, shall likewise include the corresponding forms of such terms.

(o) "*Person*" means any individual, partnership, corporation, association, or private organization, and includes the plural of that term.

(p) "*Representative*" means an attorney who is in good standing of the bar in any state, territory, or possession of the United States or of the District of Columbia or the Commonwealth of Puerto Rico, or other representative meeting the qualifications of a non-attorney representative found at 29 CFR 18.34 and designated by a party in writing.

(q) "*Reviewing official*" means the Solicitor of the Department of Labor or his designee who is—

(1) Not subject to supervision by, or required to report to, the investigating official; and

(2) Not employed in the organizational unit of the authority in which the investigating official is employed;

(3) Serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for Grade GS–16 under the General Schedule.

(r) "Statement" means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(1) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(2) With respect to (including relating to eligibility for)—

(i) A contract with, or a bid or proposal for a contract with; or

(ii) A grant, loan, or benefit from,

the authority, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under such contractor for such grant, loan, or benefit, or if the Government will reimburse such State, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit.

§ 22.3 Basis for civil penalties and assessments.

(a) *Claims.* (1) Except as provided in paragraph (c) of this section, any person who makes a claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed,

shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each such claim.

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to the authority, recipient, or party when such claim is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of the authority, recipient, or party.

(4) Each claim for property, services, or money is subject to a civil penalty regardless of whether such property, services, or money is actually delivered or paid.

(5) If the Government has made any payment (including transferred property or provided services) on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section shall also be subject to an assessment of not more than twice the amount of such claim or that portion thereof that is determined to be in violation of paragraph (a)(1) of this section. Such assessment shall be in lieu of damages sustained by the Government because of such claim.

(b) *Statements.* (1) Except as provided in paragraph (c) of this section, any person who makes a written statement that—

(i) The person knows or has reason to know—

(A) Asserts a material fact which is false, fictitious, or fraudulent; or

(B) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in such statement; and

(ii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each such statement.

(2) Each written representation, certification, or affirmation constitutes a separate statement.

(3) A statement shall be considered made to the authority when such statement is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of the authority.

(c) *Applications for certain benefits.* (1) In the case of any claim or statement made by any individual relating to any of the benefits listed in paragraph (c)(2) of this section received by such individual, such individual may be held liable for penalties and assessments under this section only if such claim or statement is made by such individual in making application for such benefits with respect to such individual's eligibility to receive such benefits.

(2) For purposes of paragraph (c) of this section, the term "benefits" means benefits under the Black Lung Benefits Act, which are intended for the personal use of the individual who receives the benefits or for a member of the individual's family.

(d) No proof of specific intent to defraud is required to establish liability under this section.

(e) In any case in which it is determined that more than one person is liable for making a claim or statement under this section, each person may be held liable for a civil penalty under this section.

(f) In any case in which it is determined that more than one person is liable for making a claim under this section on which the Government has made payment (including transferred property or provided services), an assessment may be imposed against any such person or jointly and severally against any combination of such persons.

§ 22.4 Investigation.

(a) If an investigating official concludes that a subpoena pursuant to the authority conferred by 31 U.S.C. 3804(a) is warranted—

(1) The subpoena so issued shall notify the person to whom it is addressed of the authority under which the subpoena is issued and shall identify the records or documents sought;

(2) The investigating official may designate a person to act on his or her behalf to receive the documents sought; and

(3) The person receiving such subpoena shall be required to tender to the investigating official or the person designated to receive the documents a certification that the documents sought have been produced, or that such documents are not available and the reasons therefor, or that such documents, suitably identified, have been withheld based upon the assertion of an identified privilege.

(b) If the investigating official concludes that an action under the Program Fraud Civil Remedies Act may be warranted, the investigating official shall submit a report containing the findings and conclusions of such investigation to the reviewing official.

(c) Nothing in this section shall preclude or limit an investigating official's discretion to refer allegations directly to the Department of Justice for suit under the False Claims Act or other civil relief, or to defer or postpone a report or referral to the reviewing official to avoid interference with a criminal investigation or prosecution.

(d) Nothing in this section modifies any responsibility of an investigating official to report violations of criminal law to the Attorney General.

§ 22.5 Review by the reviewing official.

(a) If, based on the report of the investigating official under § 22.4(b), the reviewing official determines that there is adequate evidence to believe that a person is liable under § 22.3 of this part, the reviewing official shall transmit to the Attorney General a written notice of the reviewing official's intention to issue a complaint under § 22.7.

(b) Such notice shall include—

(1) A statement of the reviewing official's reasons for issuing a complaint;

(2) A statement specifying the evidence that supports the allegations of liability;

(3) A description of the claims or statements upon which the allegations of liability are based;

(4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in violation of § 22.3 of this part;

(5) A statement of any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments.

§ 22.6 Prerequisites for issuing a complaint.

(a) The reviewing official may issue a complaint under § 22.7 only if—

(1) The Department of Justice approves the issuance of a complaint in a written statement described in 31 U.S.C. 3803(b)(1), and

(2) In the case of allegations of liability under § 22.3(a) with respect to a claim, the reviewing official determines that, with respect to such claim or a group of related claims submitted at the same time such claim is submitted (as defined in paragraph (b) of this section), the amount of money or the value of property or services demanded or requested in violation of § 22.3(a) does not exceed $150,000.

(b) For the purposes of this section, a related group of claims submitted at the same time shall include only those claims arising from the same transaction (*e.g.*, grant, loan, application, or contract) that are submitted simultaneously as part of a single request, demand, or submission.

(c) Nothing in this section shall be construed to limit the reviewing official's authority to join in a single complaint against a person claims that are unrelated or were not submitted simultaneously, regardless of the amount of money, or the value of property or services, demanded or requested.

§ 22.7 Complaint.

(a) On or after the date the Department of Justice approves the issuance of a complaint in accordance with 31 U.S.C. 3803(b)(1), the reviewing official may serve a complaint on the defendant, as provided in § 22.8.

(b) The complaint shall state—

(1) The allegations of liability against the defendant, including the statutory basis for liability, an identification of the claims or statements that are the basis for the alleged liability, and the reasons why liability allegedly arises from such claims or statements;

(2) The maximum amount of penalties and assessments for which the defendant may be held liable;

(3) Instructions for filing an answer to request a hearing, including a specific statement of the defendant's right to request a hearing by filing an answer and to be represented by a representative; and

(4) That failure to file an answer within 30 days of service of the complaint will result in the imposition of the maximum amount of penalties and assessments without right to appeal, as provided in § 22.10.

(c) At the same time the reviewing official serves the complaint, he or she shall serve the defendant with a copy of these regulations.

§ 22.8 Service of complaint.

(a) Service of a complaint must be made by certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of Civil Procedure. Service is complete upon receipt.

(b) Proof of service, stating the name and address of the person on whom the complaint was served, and the manner and date of service, may be made by—

(1) Affidavit of the individual serving the complaint by delivery;

(2) A United States Postal Service return receipt card acknowledging receipt; or

(3) Written acknowledgment of receipt by the defendant or his representative.

§ 22.9 Answer.

(a) The defendant may request a hearing by filing an answer with the reviewing official within 30 days of service of the complaint. An answer shall be deemed to be a request for hearing.

(b) In the answer, the defendant—

(1) Shall admit or deny each of the allegations of liability made in the complaint;

(2) Shall state any defense on which the defendant intends to rely;

(3) May state any reasons why the defendant contends that the penalties and assessments should be less than the statutory maximum; and

(4) Shall state the name, address, and telephone number of the person authorized by the defendant to act as defendant's representative, if any.

(c) If the defendant is unable to file an answer meeting the requirements of paragraph (b) of this section within the time provided, the defendant may, before the expiration of 30 days from service of the complaint, file with the reviewing official a general answer denying liability and requesting a hearing, and a request for an extension of time within which to file an answer meeting the requirements of paragraph (b) of this section. The reviewing official shall file promptly with the ALJ the complaint, the general answer denying liability, and the request for an extension of time as provided in § 22.11. For good cause shown, the ALJ may grant the defendant up to 30 additional days within which to file an answer meeting the requirements of paragraph (b) of this section.

§ 22.10 Default upon failure to file an answer.

(a) If the defendant does not file an answer within the time prescribed in § 22.9(a), the reviewing official may refer the complaint to the ALJ.

(b) Upon the referral of the complaint, the ALJ shall promptly serve on defendant in the manner prescribed in § 22.8, a notice that an initial decision will be issued under this section.

(c) The ALJ shall assume the facts alleged in the complaint to be true, and, if such facts establish liability under § 22.3, the ALJ shall issue an initial decision imposing the maximum amount of penalties and assessments allowed under the statute.

(d) Except as otherwise provided in this section, by failing to file a timely answer, the defendant waives any right to further review of the penalties and assessments imposed under paragraph (c) of this section and the initial decision shall become final and binding upon the parties 30 days after it is issued.

(e) If, before such an initial decision becomes final, the defendant files a motion with the ALJ seeking to reopen on the grounds that extraordinary circumstances prevented the defendant from filing an answer, the initial decision shall be stayed pending the ALJ's decision on the motion.

(f) If, on such motion, the defendant can demonstrate extraordinary circumstances excusing the failure to file a timely answer, the ALJ shall withdraw the initial decision in paragraph (c) of this section, if such a decision has been issued, and shall grant the defendant an opportunity to answer the complaint.

(g) A decision of the ALJ denying a defendant's motion under paragraph (e) of this section is not subject to reconsideration under § 22.38.

(h) The defendant may appeal to the authority head the decision denying a motion to reopen by filing a notice of appeal with the authority head within 15 days after the ALJ denies the motion. The timely filing of a notice of appeal shall stay the initial decision until the authority head decides the issue.

(i) If the defendant files a timely notice of appeal with the authority head, the ALJ shall forward the record of the proceeding to the authority head.

(j) The authority head shall decide expeditiously whether extraordinary circumstances excuse the defendant's failure to file a timely answer based solely on the record before the ALJ.

(k) If the authority head decides that extraordinary circumstances excused the defendant's failure to file a timely answer, the authority head shall remand the case to the ALJ with instructions to grant the defendant an opportunity to answer.

(l) If the authority head decides that the defendant's failure to file a timely answer is not excused, the authority head shall reinstate the initial decision of the ALJ, which shall become final and binding upon the parties 30 days after the authority head issues such decision.

§ 22.11 Referral of complaint and answer to the ALJ.

Upon receipt of an answer, the reviewing official shall file the complaint and answer with the ALJ.

§ 22.12 Notice of hearing.

(a) When the ALJ receives the complaint and answer, the ALJ shall promptly serve a notice of hearing upon the defendant in the manner prescribed by § 22.8. At the same time, the ALJ shall send a copy of such notice to the representative for the Government.

(b) Such notice shall include—

(1) The tentative time and place, and the nature of the hearing;

(2) The legal authority and jurisdiction under which the hearing is to be held;

(3) The matters of fact and law to be asserted;

(4) A description of the procedures for the conduct of the hearing;

(5) The name, address, and telephone number of the representative of the Government and of the defendant, if any; and

(6) Such other matters as the ALJ deems appropriate.

§ 22.13 Parties to the hearing.

(a) The parties to the hearing shall be the defendant and the authority.

(b) Pursuant to 31 U.S.C. 3730(c)(5), a private plaintiff under the False Claims Act may participate in these proceedings to the extent authorized by the provisions of that Act.

§ 22.14 Separation of functions.

(a) The investigating official, the reviewing official, and any employee or agent of the authority who takes part in investigating, preparing, or presenting a particular case may not, in such case or a factually related case—

(1) Participate in the hearing as the ALJ;

(2) Participate or advise in the initial decision or the review of the initial decision by the authority head, except as a witness or a representative in public proceedings; or

(3) Make the collection of penalties and assessments under 31 U.S.C. 3806.

(b) The ALJ shall not be responsible to, or subject to the supervision or direction of the investigating official or the reviewing official.

(c) Except as provided in paragraph (a) of this section, the representative for the Government may be employed anywhere in the authority, including in the offices of either the investigating official or the reviewing official.

§ 22.15 Ex parte contacts.

No party or person (except employees of the ALJ's office) shall communicate in any way with the ALJ on any matter at issue in a case, unless on notice and opportunity for all parties to participate. This provision does not prohibit a person or party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

§ 22.16 Disqualification of reviewing official or ALJ.

(a) A reviewing official or ALJ in a particular case may disqualify himself or herself at any time.

(b) A party may file with the ALJ a motion for disqualification of a reviewing official or an ALJ. Such motion shall be accompanied by an affidavit alleging personal bias or other reason for disqualification.

(c) Such motion and affidavit shall be filed promptly upon the party's discovery of reasons requiring disqualification, or such objections shall be deemed waived.

(d) Such affidavit shall state specific facts that support the party's belief that personal bias or other reason for disqualification exists and the time and circumstances of the party's discovery of such facts. It shall be accompanied by a certificate of the representative of record that it is made in good faith.

(e) Upon the filing of such a motion and affidavit, the ALJ shall proceed no further in the case until he or she resolves the matter of disqualification in accordance with paragraph (f) of this section.

(f)(1) If the ALJ determines that a reviewing official is disqualified, the ALJ shall dismiss the complaint without prejudice.

(2) If the ALJ disqualifies himself or herself, the case shall be reassigned promptly to another ALJ.

(3) If the ALJ denies a motion to disqualify, the authority head may determine the matter only as part of his or her review of the initial decision upon appeal, if any.

§ 22.17 Rights of parties.

Except as otherwise limited by this part, all parties may—

(a) Be accompanied, represented, and advised by a representative;

(b) Participate in any conference held by the ALJ;

(c) Conduct discovery;

(d) Agree to stipulations of fact or law, which shall be made part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present oral arguments at the hearing as permitted by the ALJ; and

(h) Submit written briefs and proposed findings of fact and conclusions of law after the hearing.

§ 22.18 Authority of the ALJ.

(a) The ALJ shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The ALJ has the authority to—

(1) Set and change the date, time, and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas requiring the attendance of witnesses and the production of documents at depositions or at hearings;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts;

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(13) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(14) Exercise such other authority as is necessary to carry out the responsibilities of the ALJ under this part.

(c) The ALJ does not have the authority to find Federal statutes or regulations invalid.

§ 22.19 Prehearing conferences.

(a) The ALJ may schedule prehearing conferences as appropriate.

(b) Upon the motion of any party, the ALJ shall schedule at least one prehearing conference at a reasonable time in advance of the hearing.

(c) The ALJ may use prehearing conferences to discuss the following:

(1) Simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings, including the need for a more definite statement;

(3) Stipulations and admissions of fact or as to the contents and authenticity of documents;

(4) Whether the parties can agree to submission of the case on a stipulated record;

(5) Whether a party chooses to waive appearance at an oral hearing and to submit only documentary evidence (subject to the objection of other parties) and written argument;

(6) Limitation of the number of witnesses;

(7) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(8) Discovery;

(9) The time and place for the hearing; and

(10) Such other matters as may tend to expedite the fair and just disposition of the proceedings.

(d) The ALJ may issue an order containing all matters agreed upon by the parties or ordered by the ALJ at a prehearing conference.

§ 22.20 Disclosure of documents.

(a) Upon written request to the reviewing official, the defendant may review any relevant and material documents, transcripts, records, and

other materials that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official under § 22.4(b) are based, unless such documents are subject to a privilege under Federal law. Upon payment of fees for duplication, the defendant may obtain copies of such documents.

(b) Upon written request to the reviewing official, the defendant also may obtain a copy of all exculpatory information in the possession of the reviewing official or investigating official relating to the allegations in the complaint, even if it is contained in a document that would otherwise be privileged. If the document would otherwise be privileged, only that portion containing exculpatory information must be disclosed.

(c) The notice sent to the Attorney General from the reviewing official as described in § 22.5 is not discoverable under any circumstances.

(d) The defendant may file a motion to compel disclosure of the documents subject to the provisions of this section. Such a motion may only be filed with the ALJ following the filing of an answer pursuant to § 22.9.

§ 22.21 Discovery.

(a) The following types of discovery are authorized:

(1) Requests for production of documents for inspection and copying;

(2) Requests for admissions of the authenticity of any relevant document or of the truth of any relevant fact;

(3) Written interrogatories; and

(4) Depositions.

(b) For the purpose of this section and §§ 22.22 and 22.23, the term "documents" includes information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence. Nothing contained herein shall be interpreted to require the creation of a document.

(c) Unless mutually agreed to by the parties, discovery is available only as ordered by the ALJ. The ALJ shall regulate the timing of discovery.

(d) *Motions for discovery.*

(1) A party seeking discovery may file a motion with the ALJ. Such a motion shall be accompanied by a copy of the requested discovery, or in the case of depositions, a summary of the scope of the proposed deposition.

(2) Within ten days of service, a party may file an opposition to the motion and/or a motion for protective order as provided in § 22.24.

(3) The ALJ may grant a motion for discovery only if he finds that the discovery sought—

(i) Is necessary for the expeditious, fair, and reasonable consideration of the issues;

(ii) Is not unduly costly or burdensome;

(iii) Will not unduly delay the proceeding; and

(iv) Does not seek privileged information.

(4) The burden of showing that discovery should be allowed is on the party seeking discovery.

(5) The ALJ may grant discovery subject to a protective order under § 22.24.

(e) *Depositions.* (1) If a motion for deposition is granted, the ALJ shall issue a subpoena for the deponent, which may require the deponent to produce documents. The subpoena shall specify the time and place at which the deposition will be held.

(2) The party seeking to depose shall serve the subpoena in the manner prescribed in § 22.8.

(3) The deponent may file with the ALJ a motion to quash the subpoena or a motion for a protective order within ten days of service.

(4) The party seeking to depose shall provide for the taking of a verbatim transcript of the deposition, which it shall make available to all other parties for inspection and copying.

(f) Each party shall bear its own costs of discovery.

§ 22.22 Exchange of witness lists, statements and exhibits.

(a) At least 15 days before the hearing or at such other time as may be ordered by the ALJ, the parties shall exchange witness lists, copies of prior statements of proposed witnesses, and copies of proposed hearing exhibits, including copies of any written statements that the party intends to offer in lieu of live testimony in accordance with § 22.33(b). At the time the above documents are exchanged, any party that intends to rely on the transcript of deposition testimony in lieu of live testimony at the hearing, if permitted by the ALJ, shall provide each party with a copy of the specific pages of the transcript it intends to introduce into evidence.

(b) If a party objects, the ALJ shall not admit into evidence the testimony of any witness whose name does not appear on the witness list or any exhibit not provided to the opposing party as provided above unless the ALJ finds good cause for the failure or that there is no prejudice to the objecting party.

(c) Unless another party objects within the time set by the ALJ, documents exchanged in accordance with paragraph (a) of this section shall be deemed to be authentic for the purpose of admissibility at the hearing.

§ 22.23 Subpoenas for attendance at hearing.

(a) A party wishing to procure the appearance and testimony of any individual at the hearing may request that the ALJ issue a subpoena.

(b) A subpoena requiring the attendance and testimony of an individual may also require the individual to produce documents at the hearing.

(c) A party seeking a subpoena shall file a written request therefor not less than 15 days before the date fixed for the hearing unless otherwise allowed by the ALJ for good cause shown. Such request shall specify any documents to be produced and shall designate the witnesses and describe the address and location thereof with sufficient particularity to permit such witnesses to be found.

(d) The subpoena shall specify the time and place at which the witness is to appear and any documents the witness is to produce.

(e) The party seeking the subpoena shall serve it in the manner prescribed in § 22.8. A subpoena on a party or upon an individual under the control of a party may be served by first class mail.

(f) A party or the individual to whom the subpoena is directed may file with the ALJ a motion to quash the subpoena within ten days after service or on or before the time specified in the subpoena for compliance if it is less than ten days after service.

§ 22.24 Protective order.

(a) A party or a prospective witness or deponent may file a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing, seeking to limit the availability or disclosure of evidence.

(b) In issuing a protective order, the ALJ may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) That the discovery not be had;

(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) That the discovery may be had only through a method of discovery other than that requested;

(4) That certain matters not be inquired into, or that the scope of discovery be limited to certain matters;

(5) That discovery be conducted with no one present except persons designated by the ALJ;

(6) That the contents of discovery or evidence be sealed;

(7) That a deposition after being sealed be opened only by order of the ALJ;

(8) That a trade secret or other confidential research, development, commercial information, or facts pertaining to any criminal investigation, proceeding, or other administrative investigation not be disclosed or be disclosed only in a designated way; or

(9) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the ALJ.

§ 22.25 Fees.

The party requesting a subpoena shall pay the cost of the fees and mileage of any witness subpoenaed in the amounts that would be payable to a witness in a proceeding in United States District Court. A check for witness fees and mileage shall accompany the subpoena when served, except that when a subpoena is issued on behalf of the authority, a check for witness fees and mileage need not accompany the subpoena.

§ 22.26 Form, filing and service of papers.

(a) *Form.* (1) Documents filed with the ALJ shall include an original and two copies.

(2) Every pleading and paper filed in the proceeding shall contain a caption setting forth the title of the action, the case number assigned by the ALJ, and a designation of the paper (e.g., motion to quash subpoena).

(3) Every pleading and paper shall be signed by, and shall contain the address and telephone number of the party or the person on whose behalf the paper was filed, or his or her representative.

(4) Papers are considered filed when they are mailed. Date of mailing may be established by a certificate from the party or its representative or by proof that the document was sent by certified or registered mail.

(b) *Service.* A party filing a document with the ALJ shall, at the time of filing, serve a copy of such document on every other party. Service upon any party of any document other than those required to be served as prescribed in § 22.8 shall be made by delivering a copy or placing a copy of the document in the United States mail, postage prepaid and addressed to the party's last known address. When a party is represented by a representative, service shall be made upon such representative in lieu of the actual party.

(c) *Proof of service.* A certificate of the individual serving the document by personal delivery or by mail, setting forth the manner of service, shall be proof of service.

§ 22.27 Computation of time.

(a) In computing any period of time under this part or in an order issued thereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal government, in which event it includes the next business day.

(b) When the period of time allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays observed by the Federal government shall be excluded from the computation.

(c) Where a document has been served or issued by placing it in the mail, an additional five days will be added to the time permitted for any response.

§ 22.28 Motions.

(a) Any application to the ALJ for an order or ruling shall be by motion. Motions shall state the relief sought, the authority relied upon, and the facts alleged, and shall be filed with the ALJ and served on all other parties.

(b) Except for motions made during a prehearing conference or at the hearing, all motions shall be in writing. The ALJ may require that oral motions be reduced to writing.

(c) Within 15 days after a written motion is served, or such other time as may be fixed by the ALJ, any party may file a response to such motion.

(d) The ALJ may not grant a written motion before the time for filing responses thereto has expired, except upon consent of the parties or following a hearing on the motion, but may overrule or deny such motion without awaiting a response.

(e) The ALJ shall make a reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing.

§ 22.29 Sanctions.

(a) The ALJ may sanction a person, including any party or representative for—

(1) Failing to comply with an order, rule, or procedure governing the proceeding;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) Any such sanction, including but not limited to those listed in paragraphs (c), (d), and (e) of this section, shall reasonably relate to the severity and nature of the failure or misconduct.

(c) When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the ALJ may—

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admission, deem each matter of which an admission is requested to be admitted;

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying, upon testimony relating to the information; and

(4) Strike any part of the pleadings or other submissions of the party failing to comply with such request.

(d) If a party fails to prosecute or defend an action under this part commenced by service of a notice of hearing, the ALJ may dismiss the action or may issue an initial decision imposing penalties and assessments.

(e) The ALJ may refuse to consider any motion, request, response, brief or other document which is not filed in a timely fashion.

§ 22.30 The hearing and burden of proof.

(a) The ALJ shall conduct a hearing on the record in order to determine whether the defendant is liable for a civil penalty or assessment under § 22.3 and, if so, the appropriate amount of any such civil penalty or assessment considering any aggravating or mitigating factors.

(b) The authority shall prove defendant's liability and any aggravating factors by a preponderance of the evidence.

(c) The defendant shall prove any affirmative defenses and any mitigating factors by a preponderance of the evidence.

(d) The hearing shall be open to the public unless otherwise ordered by the ALJ for good cause shown.

§ 22.31 Determining the amount of penalties and assessments.

(a) In determining an appropriate amount of civil penalties and assessments, the ALJ and the authority head, upon appeal, should evaluate any circumstances that mitigate or aggravate the violation and should articulate in their opinions the reasons that support the penalties and assessments they impose. Because of the intangible costs of fraud, the expense of investigating such conduct, and the need to deter others who might be similarly tempted,

ordinarily double damages and a significant civil penalty should be imposed.

(b) Although not exhaustive, the following factors are among those that may influence the ALJ and the authority head in determining the amount of penalties and assessments to impose with respect to the misconduct (*i.e.*, the false, fictitious, or fraudulent claims or statements) charged in the complaint:

(1) The number of false, fictitious, or fraudulent claims or statements;

(2) The time period over which such claims or statements were made;

(3) The degree of the defendant's culpability with respect to the misconduct;

(4) The amount of money or the value of the property, services, or benefit falsely claimed;

(5) The value of the Government's actual loss as a result of the misconduct, including forseeable consequential damages and the costs of investigation;

(6) The relationship of the amount imposed as civil penalties to the amount of the Government's loss;

(7) The potential or actual impact of the misconduct upon national defense, public health or safety, or public confidence in the management of Government programs and operations, including particularly the impact on the intended beneficiaries of such programs;

(8) Whether the defendant has engaged in a pattern of the same or similar misconduct;

(9) Whether the defendant attempted to conceal the misconduct;

(10) The degree to which the defendant has involved others in the misconduct or in concealing it;

(11) Where the misconduct of employees or agents is imputed to the defendant, the extent to which the defendant's practices fostered or attempted to preclude such misconduct;

(12) Whether the defendant cooperated in or obstructed an investigation of the misconduct;

(13) Whether the defendant assisted in identifying and prosecuting other wrongdoers;

(14) The complexity of the program or transaction, and the degree of the defendant's sophistication with respect to it, including the extent of the defendant's prior participation in the program or in similar transactions;

(15) Whether the defendant has been found, in any criminal, civil, or administrative proceeding to have engaged in similar misconduct or to have dealt dishonestly with the Government of the United States or of a State, directly or indirectly; and

(16) The need to deter the defendant and others from engaging in the same or similar misconduct.

(c) Nothing in this section shall be construed to limit the ALJ or the authority head from considering any other factors that in any given case may mitigate or aggravate the offense for which penalties and assessments are imposed.

§ 22.32 Location of hearing.

(a) The hearing may be held—

(1) In any judicial district of the United States in which the defendant resides or transacts business;

(2) In any judicial district of the United States in which the claim or statement in issue was made; or

(3) In such other place as may be agreed upon by the defendant and the ALJ.

(b) Each party shall have the opportunity to present argument with respect to the location of the hearing.

(c) The hearing shall be held at the place and at the time ordered by the ALJ.

§ 22.33 Witnesses.

(a) Except as provided in paragraph (b) of this section, testimony at the hearing shall be given orally by witnesses under oath or affirmation.

(b) At the discretion of the ALJ, testimony may be admitted in the form of a written statement or deposition. Any such written statement must be provided to all other parties along with the last known address of such witness, in a manner which allows sufficient time for other parties to subpoena such witness for cross-examination at the hearing. Prior written statements of witnesses proposed to testify at the hearing and deposition transcripts shall be exchanged as provided in § 22.22(a).

(c) The ALJ shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) Make the interrogation and presentation effective for the ascertainment of the truth, (2) Avoid needless consumption of time, and (3) Protect witnesses from harassment or undue embarrassment.

(d) The ALJ shall permit the parties to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(e) At the discretion of the ALJ, a witness may be cross-examined on matters relevant to the proceeding without regard to the scope of his or her direct examination. To the extent permitted by the ALJ, cross-examination on matters outside the scope of direct examination shall be conducted in the manner of direct examination and may proceed by leading questions only if the witness is a hostile witness, an adverse party, or a witness identified with an adverse party.

(f) Upon motion of any party, the ALJ shall order witnesses excluded so that they cannot hear the testimony of other witnesses. This rule does not authorize exclusion of—

(1) A party who is an individual;

(2) In the case of a party that is not an individual, an officer or employee of the party appearing for the entity pro se or designated by the party's representative; or

(3) An individual whose presence is shown by a party to be essential to the presentation of its case, including an individual employed by the Government engaged in assisting the representative for the Government.

§ 22.34 Evidence.

(a) The ALJ shall determine the admissibility of evidence.

(b) Except as provided in this part, the ALJ shall not be bound by the Federal Rules of Evidence. However, the ALJ may apply the Federal Rules of Evidence where appropriate, e.g., to exclude unreliable evidence.

(c) The ALJ shall exclude irrelevant and immaterial evidence.

(d) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay or needless presentation of cumulative evidence.

(e) Although relevant, evidence may be excluded if it is privileged under Federal law.

(f) Evidence concerning offers of compromise or settlement shall be inadmissible to the extent provided in Rule 408 of the Federal Rules of Evidence.

(g) The ALJ shall permit the parties to introduce rebuttal witnesses and evidence.

(h) All documents and other evidence offered or taken for the record shall be open to examination by all parties, unless otherwise ordered by the ALJ pursuant to § 22.24.

§ 22.35 The record.

(a) The hearing will be recorded and transcribed. Transcripts may be obtained following the hearing from the ALJ at a cost not to exceed the actual cost of duplication.

(b) The transcript of testimony, exhibits and other evidence admitted at the hearing, and all papers and requests filed in the proceeding constitute the

record for the decision by the ALJ and the authority head.

(c) The record may be inspected and copied (upon payment of a reasonable fee) by anyone, unless otherwise ordered by the ALJ pursuant to § 22.24.

§ 22.36 Post-hearing briefs.

The ALJ may require the parties to file post-hearing briefs. In any event, any party may file a post-hearing brief. The ALJ shall fix the time for filing such briefs, not to exceed 60 days from the date the parties receive the transcript of the hearing or, if applicable, the stipulated record. Such briefs may be accompanied by proposed findings of fact and conclusions of law. The ALJ may permit the parties to file reply briefs.

§ 22.37 Initial decision.

(a) The ALJ shall issue an initial decision based only on the record, which shall contain findings of fact, conclusions of law, and the amount of any penalties and assessments imposed.

(b) The findings of fact shall include a finding on each of the following issues:

(1) Whether the claims or statements identified in the complaint, or any portions thereof, violate § 22.3;

(2) If the person is liable for penalties or assessments, the appropriate amount of any such penalties or assessments considering any mitigating or aggravating factors that he or she finds in the case, such as those described in § 22.31.

(c) The ALJ shall promptly serve the initial decision on all parties within 90 days after the time for submission of post-hearing briefs and reply briefs (if permitted) has expired. The ALJ shall at the same time serve all parties with a statement describing the right of any defendant determined to be liable for a civil penalty or assessment to file motion for reconsideration with the ALJ or a notice of appeal with the authority head. If the ALJ fails to meet the deadline contained in this paragraph, he or she shall notify the parties of the reason for the delay and shall set a new deadline.

(d) Unless the initial decision of the ALJ is timely appealed to the authority head, or a motion for reconsideration of the initial decision is timely filed, the initial decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after it is issued by the ALJ.

§ 22.38 Reconsideration of initial decision.

(a) Except as provided in paragraph (d) of this section, any party may file a motion for reconsideration of the initial decision within 20 days of receipt of the initial decision. If service was made by mail, receipt will be presumed to be five days from the date of mailing in the absence of contrary proof.

(b) Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Such motion shall be accompanied by a supporting brief.

(c) Responses to such motions shall be allowed only upon request of the ALJ.

(d) No party may file motion for reconsideration of an initial decision that has been revised in response to a previous motion for reconsideration.

(e) The ALJ may dispose of a motion for reconsideration by denying it or by issuing a revised initial decision.

(f) If the ALJ denies a motion for reconsideration, the initial decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after the ALJ denies the motion, unless the initial decision is timely appealed to the authority head in accordance with § 22.39.

(g) If the ALJ issues a revised initial decision, that decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after it is issued, unless it is timely appealed to the authority head in accordance with § 22.39.

§ 22.39 Appeal to authority head.

(a) Any defendant who has filed a timely answer and who is determined in an initial decision to be liable for a civil penalty or assessment may appeal such decision to the authority head by filing a notice of appeal with the authority head in accordance with this section.

(b)(1) A notice of appeal may be filed at any time within 30 days after the ALJ issues an initial decision. However, if another party files a motion for reconsideration under § 22.38, consideration of the appeal shall be stayed automatically pending resolution of the motion for reconsideration.

(2) If a motion for reconsideration is timely filed, a notice of appeal may be filed within 30 days after the ALJ denies the motion or issues a revised initial decision, whichever applies.

(3) The authority head may extend the initial 30 day period for an additional 30 days if the defendant files with the authority head a request for an extension within the initial 30 day period and shows good cause.

(c) If the defendant files a timely notice of appeal with the authority head, and the time for filing motions for reconsideration under § 22.38 has expired, the ALJ shall forward the record of the proceeding to the authority head.

(d) A notice of appeal shall be accompanied by a written brief specifying exceptions to the initial decision and reasons supporting the exceptions.

(e) The representative for the Government may file a brief in opposition to exceptions within 30 days of receiving the notice of appeal and accompanying brief.

(f) There is no right to appear personally before the authority head.

(g) There is no right to appeal any interlocutory ruling by the ALJ.

(h) In reviewing the initial decision, the authority head shall not consider any objection that was not raised before the ALJ unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the authority head that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the authority head shall remand the matter to the ALJ for consideration of such additional evidence.

(j) The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment, determined by the ALJ in any initial decision.

(k) The authority head shall promptly serve each party to the appeal with a copy of the decision of the authority head and a statement describing the right of any person determined to be liable for a penalty or assessment to seek judicial review.

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805 after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the authority head serves the defendant with a copy of the authority head's decision, a determination that a defendant is liable under § 22.3 is final and is not subject to judicial review.

§ 22.40 Stays ordered by the Department of Justice.

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the authority head a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the authority head shall stay the process immediately. The authority head may order the process resumed only upon receipt of

the written authorization of the Attorney General.

§ 22.41 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the authority head.

(b) No administrative stay is available following a final decision of the authority head.

§ 22.42 Judicial review.

Section 3805 of title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the authority head imposing penalties or assessments under this part and specifies the procedures for such review.

§ 22.43 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.

§ 22.44 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 22.42 or § 22.43, or any amount agreed upon in a compromise or settlement under § 22.46, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made under this subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

§ 22.45 Deposit in Treasury of United States.

All amounts collected pursuant to this part shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

§ 22.46 Compromise or settlement.

(a) Parties may make offers of compromise or settlement at any time.

(b) The reviewing official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the ALJ issues an initial decision.

(c) The authority head has exclusive authority to compromise or settle a case under this part at any time after the date on which the ALJ issues an initial decision, except during the pendency of any review under § 22.42 or during the pendency of any action to collect penalties and assessments under § 22.43.

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under § 22.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(e) The investigating official may recommend settlement terms to the reviewing official, the authority head, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the authority head, or the Attorney General, as appropriate.

(f) Any compromise or settlement must be in writing.

§ 22.47 Limitations.

(a) The notice of hearing (under § 22.12) with respect to a claim or statement must be served in the manner specified in § 22.8 within 6 years after the date on which such claim or statement is made.

(b) If the defendant fails to file a timely answer, service of a notice under § 22.10(b) shall be deemed a notice of hearing for purposes of this section.

(c) The statute of limitations may be extended by agreement of the parties.

Signed at Washington, DC, this 14th day of December 1987.

Dennis E. Whitfield,

Deputy Secretary of Labor.

[FR Doc. 87-29286 Filed 12-21-87; 8:45 am]

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Federal Register

Tuesday
December 22, 1987

Part IV

Federal Maritime Commission

Inquiry on Tariff Automation; Notice

FEDERAL MARITIME COMMISSION

Inquiry on Tariff Automation

The Federal Maritime Commission (FMC) is seeking the views of persons who are not potential bidders on the functionality of its proposed Automated Tariff Filing and Information System (ATFI).

The FMC has the responsibility under the shipping statutes to:

1. Accept the filing of common carrier tariffs and service contracts containing rates and charges governing transportation of cargo in U.S. waterborne domestic offshore and foreign commerce. (Marine terminal operators also file tariffs of their rates and charges.)
2. Ensure that tariffs and service contract data comply with basic statutory requirements before they are accepted for filing.
3. Maintain the official file of tariffs and service contracts and to certify authentic and accurate tariff data to courts and other tribunals.
4. Make tariffs and the essential terms of service contracts available for public inspection.

Due to the ever-growing volume of tariff-type data filed each year in paper format, the FMC, in order to better perform its statutory responsibilities, is attempting to automate its tariff functions through an electronic Automated Tariff Filing and Information System. The final system is scheduled to begin full operation in the Fall of 1989.

In 1986, a study by the FMC's private-sector contractor found that tariff automation was feasible and the FMC's Industry Advisory Committee agreed. In October of 1987, a Benefit Cost Analysis was prepared by a commercial contractor and corroborated the economic feasibility of the project. (This document is "Procurement Sensitive" and is not now available.) Recently, the FMC was delegated procurement authority for the project by the General Services Administration, and a draft functional Request for Proposals (RFP) is being finalized by a private-sector contractor for the FMC.

On December 3, 1987, the FMC requested in the Commerce Business Daily letters of interest by January 4, 1988 from potential bidders on the project. (See this CBD notice or the FMC's Press Release of the same date for further details.) The draft RFP will be sent to firms on the Bidders' List in January, 1988, and a Presolicitation Bidders Conference will be held shortly thereafter to respond to written and oral questions of the potential bidders, before the RFP is finalized. Technical matters are intended to be resolved by these specialized procurement procedures.

The impact of the proposed system's functionality, however, on the public and the shipping industry has been only recently developed in detail sufficient for meaningful review by, *inter alia,* the following types of firms:

1. The shipping industry, e.g., shippers, carriers, freight forwarders, and terminal operators;
2. The information industry, e.g., the commercial firms who perform requested tariff filing, retrieval and watching services for the shipping industry; and
3. Associations, small businesses, and other interested persons, such as the public and government agencies.

Accordingly, before the RFP is finalized, the FMC is providing this opportunity for comment by firms other than potential bidders on the below-described basic functionality of the proposed system.

The electronic ATFI system, for which the FMC is seeking a prime contractor, will be run on the contractor's central computer with appropriate terminals at the FMC for tariff review, processing, and retrieval. The format of tariff data to be electronically filed is being developed in conjunction with the industry Transportation Data Coordinating Committee and will emphasize "tariff line items," *vis-a-vis,* tariff pages, as under the present system. "Tariff line items" are basically equivalent to commodity rate items in current paper tariffs and can be amended directly, without having to issue an entire revised page.

As recommended by the FMC's Advisory Committee, standardized commodity or geographic coding will not be mandated at the beginning, but the system must have the capability to provide for these functions at the appropriate time. The system will also include the essential terms of service contracts.

Full implementation of the system will be in phases to allow commercial firms time to adapt their operations. Exemptions, at least temporary, will be granted to some types of tariff filers who are not economically able to use the electronic system.

The system will be as compatible as possible with existing computer equipment through the use of software for full connectibility. Filing of tariffs will be done primarily by using asynchronous terminals or microcomputers, dialing in with a modem to the FMC's data base. The filing software will provide on-line edit checks to ensure that the tariff information is correct and that basic statutory provisions are complied with before the tariff can be officially on file. Such edit checks, for example, will be able to electronically identify improper effective dates, such as a rate increase on less than 30-days notice. Other problems for which rejection is warranted, such as unclear or conflicting tariff provisions, will still have to be handled by FMC staff and, if necessary, resolved at the Commission level. The system's computer capabilities, however, will facilitate this process also.

The ATFI system will have appropriate security mechanisms to protect the integrity of the data base.

Tariff filers will be able to file and amend their tariff materials by remote access directly to the ATFI system by carriers or conferences almost any time of day. The carrier or conference will be able to screen-scan its tariff so that the appropriate item can be amended. Commercial tariff services can also continue to be used by carriers and conferences for filing, e.g., by direct input into the data base, after creating tariffs on instruction from their clients, or transforming their paper tariffs into electronic form. The FMC will encourage commercial tariff services to assist small firms who may find it difficult to file electronically.

Once the tariff data is officially on file, the FMC will download the entire data base in "flat files", formatted onto computer tapes which will be sold to any person at the relatively inexpensive, marginal cost of dissemination. This will satisfy the FMC's statutory duty of providing copies of tariffs at a reasonable charge. In order to keep up with a substantial number of rapidly changing freight rates in the shipping industry, however, interested persons must obtain these updated data-base tapes frequently. FMC will offer a subscription service to provide this capability.

The FMC will not perform any value-added processing of the tariff data for sale to the shipping public in competition with commercial tariff services. It is expected that those services will subscribe to the data-base tapes to facilitate their value-added services. The FMC must, however, use the system to process tariff data internally for investigative and other regulatory purposes and will continue to utilize appropriate and available, value-added services of commercial tariff firms for this purpose.

In order to carry out its other statutory function of making tariffs and essential terms of service contracts available for

public inspection, the FMC will continue to have a public reference room at its Headquarters in Washington, DC. Here, interested persons can access a terminal on which information on a particular tariff will be brought up on the screen and scanned to find the necessary rates and rules. Paper copies of tariff data will still be available upon written request, especially for certification to courts and other tribunals for proceedings involving disputes over historical tariff rates.

Another retrieval feature currently contained in the draft RFP is remote access to the FMC data base by modem, almost any time of day, for retrieval of tariff information by any interested person. This is described in the October 28, 1986 Feasibility Study Final Report as follows:

"b. Retrieval and Analysis by the Public

* * * * *

"FMC would also allow remote access whereby a member of the general public could access the automated tariff system from remote locations. For example, the system would enable a shipper on the West Coast to retrieve data from the automated tariff system using a terminal or microcomputer equipped with a device (i.e., a modem) to enable data communications over public telephone lines.

"* * * However, members of the general public would only be able to perform relatively rudimentary retrievals, and essentially no analysis of the data. Specifically, members of the public would only be able to retrieve one tariff at a time, in its full format. To retrieve a tariff, the public user would have to specify the specific tariff on a particular carrier that is desired; the public user would not be able to search by keys (e.g., by route or commodity).

"* * * FMC has imposed these restrictions based on a careful analysis of applicable federal policies and precedents. FMC does not want to compete with third-party services for the provision of sophisticated retrieval and analysis of tariff data for shippers, carriers, and others in the private market. * * * In the absence of tariff automation—i.e., the status quo—FMC will make available copies of tariffs to members of the public only if they can specify the particular tariff desired. A user fee is assessed for this service. FMC would not expand these services after tariff automation is implemented. However, * * * FMC would help ensure that third-party services can provide such services." [Pages IV–8 and 9.]

However, to ensure that the system will not compete with commercial tariff information firms, the FMC is considering not including this general electronic retrieval feature in its final RFP, thereby leaving this function to be performed solely by existing tariff services for their clients, as they do now in a paper environment. The change would not prevent carrier and conference filers from remotely accessing their own tariffs on the FMC's data base for retrieval, as well as for filing. Moreover, carriers would not be precluded from remotely accessing ATFI for conference tariffs to which they belong in order to check the official freight rates that should be charged to their shippers; and any person can use the terminals in the FMC public reading room for tariff retrieval. However, under this potential change, carriers would have remote access to their competitors' tariff data only through the value-added vendors that will provide this service.

The foregoing is the basic "functionality" of ATFI, which is the result of many months of deliberations by the FMC after consideration of major policies on automation and electronic technology, the needs of the shipping industry and other affected businesses, proper use of Government funds, and the public interest. Other details, such as exact costs, must still be worked out as the system is contracted for and further developed.

The FMC will operate the ATFI system as a prototype for a period of at least six months to test it and improve its functionality and performance. Volunteers will be sought for this prototype operation, during which there will be public-comment rulemakings on the final format of electronic tariff data and for establishment of user fees.

In this outreach effort, the FMC is providing opportunity for comment by anyone whose business operation may be affected by the basic functionality of ATFI, so that the final RFP can set forth the necessary specifications for the best possible system.

In order for your comments to be so considered, they must be submitted in writing, in an original and 20 copies by January 22, 1988, to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573.

After January 22, 1988, all comments will be made available to the public at the FMC's normal cost of production.

Responses to this Notice should not include procurement-related comments or questions about the technical nature of the system requirements or contractual or other issues raised by the draft RFP. These will be handled in the Presolicitation Bidders Conference. Also, commenters should not submit their qualifications as bidders on the project or similar promotional materials, since these will be requested by the RFP during the bidding process.

A copy of the summary of the 1986 Feasibility Study is available upon request to the Bureau of Administration at 202/523–5866. Because of the procurement process, however, no further information on the proposed system can be given out until the draft RFP is made public.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 87–29390 Filed 12–21–87; 8:45 am]

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federal register

Tuesday
December 22, 1987

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Parts 108 and 129

Airplane Operator and Foreign Air Carrier Security Rules; Final Rule and Request for Comments

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 108 and 129

[Docket No. 25502; Amdts. Nos. 108-5 and 129-15]

Airplane Operator and Foreign Air Carrier Security Rules

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This final rule requires the application of certain security procedures to all persons entering an airport sterile area in the United States at a preboarding screening check point. These procedures are designed to prevent or deter the carriage aboard aircraft of explosives, incendiaries, and deadly or dangerous weapons. These amendments are intended to limit the application of special procedures that have allowed certain classes of individuals to enter sterile areas through screening points without inspection of their persons and accessible property. They are needed to respond to a threat to aviation security highlighted by the recent crash of an air carrier aircraft with the loss of 44 lives.

DATES: This amendment is effective December 21, 1987. Comments must be received on or before February 21, 1988.

ADDRESS: Send comments on this final rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 25502, 800 Independence Avenue SW., Washington, DC 20591; or deliver comments in duplicate to: Federal Aviation Administration Rules Docket, Room 916, 800 Independence Avenue SW., Washington, DC 20591. Comments must be marked Docket No. 25502. Comments may be examined in the Rules Docket on weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Donnie Blazer, Domestic Civil Aviation Security Division, Office of Civil Aviation Security, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Telephone: (202) 267-8058.

SUPPLEMENTARY INFORMATION:

Comments Invited

Because of the emergency need for this regulation, it is being adopted without notice and public comment. However, the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034; February 26, 1979) provide that, to the maximum extent possible, DOT operating administrations should provide an opportunity for public comment, after issuance, for regulations issued without prior notice. Accordingly, interested persons are invited to comment on this final rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-204, Docket No. 25502, 800 Independence Avenue SW., Washington, DC 20591. All comments received will be available in the Rules Docket for examination by interested persons. This amendment may be changed in the light of comments received.

Commenters wishing the FAA to acknowledge receipt of their comments on this final rule must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25502." The postcard will be date and time stamped and returned to the commenter.

Background

Part 108 of the Federal Aviation Regulations requires each certificate holder required to conduct security screening to prevent or deter the carriage aboard its airplanes of any explosive, incendiary, or deadly or dangerous weapon on or about any individual's person or accessible property. The certificate holder must use the procedures included, and the facilities and equipment described, in its security program approved by the FAA for this purpose. Similar requirements in Part 129 apply to foreign air carriers landing or taking off in the United States.

Under the security screening procedures adopted by U.S. certificate holders and foreign air carriers in their required security programs, employees of the airport and air carriers and other classes of individuals, including law enforcement officials, have been permitted to pass through airport screening points under special procedures. Under these programs, many of these individuals have not been required to submit to the inspection of their persons or accessible property. The FAA did not regard these classes of individuals as a risk to aviation security when they were properly identified and the special procedures were correctly applied.

Recent events have caused concern over the proper application of these procedures. On December 7, 1987, Pacific Southwest Airlines Flight 1771 apparently was caused to crash by an individual who had smuggled a gun aboard the aircraft. Forty-four persons lost their lives in this incident. While it is not yet clearly established whether the perpetrator of this crime used an air carrier employee identification card to avoid inspection of his person and property, the incident raises questions about the applicability of the screening process to airport and airline employees. Clearly proper application of the special screening procedures should prevent any unauthorized airport or airline employee from avoiding inspection of his or her person and accessible property. The FAA is particularly concerned that individuals, using real or forged identification, may attempt to similarly compromise the screening system. To ensure maximum protection of all of those involved in aviation and restore public confidence in the aviation security system, the FAA is adopting immediately rules to remove this possible abuse of the screening system.

These amendments to Parts 108 and 129 provide that all individuals who enter an airport sterile area at each preboarding screening checkpoint in the United States must be inspected using procedures, facilities, and equipment designed to detect explosives, incendiaries, and deadly or dangerous weapons. In addition, all accessible property under that person's control must be inspected. These inspection procedures will be applied to all airport and airline employees. Only limited exceptions will be authorized by the Administrator.

These emergency amendments apply only to operations of certificate holders and foreign air carriers in the United States. They apply to screening at each checkpoint in the United States for which the certificate holder or foreign air carrier is responsible, even if the screening of its passengers at a specific checkpoint is conducted by another operator.

Reason for No Notice and Immediate Adoption

These amendments are needed immediately to ensure the overall effectiveness of the aviation security regulations to meet this particular threat. For this reason, notice and public procedure are impracticable, and good cause exists for making this amendment effective in less then 30 days. In accordance with DOT Regulatory Policies and Procedures, an opportunity

for public comment after publication is being provided.

Economic Assessment

Because of the emergency need for this regulation and in accordance with section 8(a)(1) of Executive Order 12291, I find that following the procedures of that Executive Order is impracticable. For the same reason, no regulatory evaluation has been prepared prior to publication of this final rule. In accordance with section 11(a) of the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), a regulatory evaluation will be prepared and placed in the public docket, unless an exception is granted by the Secretary of Transportation.

Because none of the certificate holders affected by the amendment to Part 108 is a small entity and because the cost to the additional individuals submitting themselves to detection procedures is minimal, these amendments will not have a significant economic impact on a substantial number of small entities.

Conclusion

In accordance with section 8(a)(1) of Executive Order 12291, because of the emergency need for this regulation, the procedures in that Executive Order have not been followed. In view of the substantial public interest in the matter of aviation security, this regulation is considered significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since none of the certificate holders affected by the amendment to Part 108 is a small entity and since the cost to individuals is minimal, it is certified that these amendments will not have a significant economic impact on a substantial number of small entities. A copy of the regulatory evaluation to be prepared for these amendments will be placed in the public docket, unless an exception is granted by the Secretary of Transportation.

List of Subjects

14 CFR Part 108

Airplane operator security, Aviation safety, Air transportation, Air carrier, Airlines, Security measures, Transportation.

14 CFR Part 129

Foreign air carrier, Aircraft, Air carrier.

The Amendment

Accordingly, Parts 108 and 129 of the Federal Aviation Regulations (14 CFR Part 108 and 129) are amended as follows:

PART 108—[AMENDED]

1. The authority citation for Part 108 continues to read as follows:

Authority: 49 U.S.C. 1354, 1356, 1357, 1358, 1421, and 1424; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983).

2. By adding a new paragraph (c) to § 108.9 to read as follows:

§ 108.9 Screening of passengers and property.

* * * * *

(c) Except as provided by its approved security program, each certificate holder required to conduct screening under a security program shall use the procedures included, and the facilities and equipment described, in its approved security program for detecting explosives, incendiaries, and deadly or dangerous weapons to inspect each person entering a sterile area at each preboarding screening checkpoint in the United States for which it is responsible, and to inspect all accessible property under that person's control.

PART 129—[AMENDED]

3. The authority citation for Part 129 continues to read as follows:

Authority: 49 U.S.C. 1346, 1354(a), 1356, 1357, 1421, 1502, and 1511; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983).

4. By adding a new paragraph (j) to § 129.25 to read as follows:

§ 129.25 Airplane security.

* * * * *

(j) Unless otherwise authorized by the Administrator, each foreign air carrier required to conduct screening under this part shall use procedures, facilities, and equipment for detecting explosives, incendiaries, and deadly or dangerous weapons to inspect each person entering a sterile area at each preboarding screening checkpoint in the United States for which it is responsible, and to inspect all accessible property under that person's control.

T. Allan McArtor,

Administrator.

Issued in Washington, DC., on December 18, 1987.

[FR Doc. 87-29424 Filed 12-21-87; 9:38 am]

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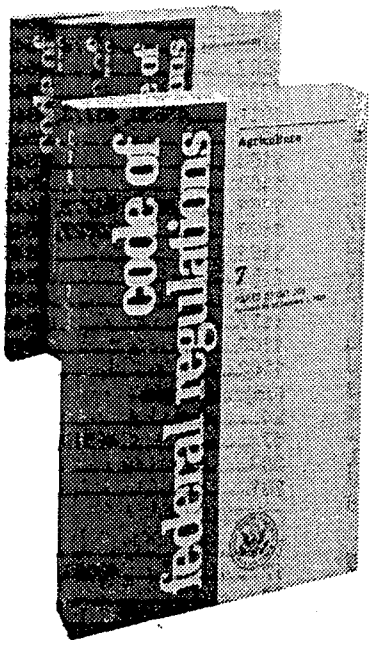

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